

BOX ELDER COUNTY PLANNING COMMISSION AGENDA

September 19, 2024

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 B. Robinson, M. Wilding, J. Holmgren, J. Pugsley, V. Smith, J. Jacobsen, and L. Jensen)
2. **INVOCATION**
3. **PLEDGE OF ALLEGIANCE**
4. **APPROVAL of the August 15, 2024 Planning Commission Minutes.**
5. **UNFINISHED BUSINESS**
 - a. **8400 W AMEND AND EXTEND SUBDIVISION, SS24-015**, Request for preliminary plat approval of a new 5-Lot subdivision located at approximately 10100 North 8400 West in the Tremonton area of Unincorporated Box Elder County. **ACTION**
 - b. **ZONING MAP AMENDMENT, Z21-008**, Request for a zone change from MU-40 (Multiple Use - 40 acre lots) to RR-1 (Rural Residential - 1 acre lots), of 400 ft. east and west from center line of Green Rock Canyon Road located at approximately 55400 West HWY 30 in the Park Valley area of Unincorporated Box Elder County. **ACTION**
6. **PUBLIC HEARINGS**
 - a. **ORDINANCE TEXT AMENDMENT, Z24-012**, Request for a text amendment to Chapter 2-2, Administrative and Development Review Procedures, of the Box Elder County Land Use Management & Development Code. **ACTION**
 - b. **ORDINANCE TEXT AMENDMENT, Z24-013**, Request for a text amendment adding Section 5-1-380, Swimming Pools to the Box Elder County Land Use Management & Development Code. **ACTION**
7. **NEW BUSINESS**
 - a. **CALDER EXCAVATION, CUP24-003**, Request for a Conditional Use Permit for excavation for property located at 4542 West 14800 North in the East Garland area of Unincorporated Box Elder County. **ACTION**
8. **WORKING REPORTS**
 - a. Planning Commission Training - Exactions
9. **PUBLIC COMMENT**
10. **ADJOURN**_____

BOX ELDER COUNTY PLANNING COMMISSION MINUTES AUGUST 15, 2024

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:

Roll Call

Mellonee Wilding	Chairman	<i>the following Staff was present:</i>	
Jed Pugsley	Vice-Chair	Scott Lyons	Comm Dev Director
Lonnie Jensen	Member	Marcus Wager	County Planner
Bonnie Robinson	Member	Destin Christiansen	County Planner
Jared Holmgren	Member	Stephen Hadfield	County Attorney
Jennifer Jacobsen	Member	Boyd Bingham	Excused
Vance Smith	Alternate/Member	Diane Fuhriman	Executive Secretary

Chairman Mellonee Wilding called the meeting to order at 7:00 p.m.

The Invocation was offered by **Commissioner Bonnie Robinson**.
Pledge was led by **Commissioner Lonnie Jensen**.

The following citizens were present & signed the attendance sheet

See Attachment No. 1 – Attendance Sheet.

The Minutes of the June 20, 2024 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Bonnie Robinson** to approve the minutes as written. The motion was seconded by **Commissioner Lonnie Jensen** and passed unanimously.

UNFINISHED BUSINESS

8400 W AMEND AND EXTEND SUBDIVISION, SS24-015, Request for preliminary plat approval of a new 5-Lot subdivision located at approximately 10100 North 8400 West in the Tremonton area of Unincorporated Box Elder County. ACTION.

Staff explained the proposed subdivision is for five new lots and also extends the property line on Lot 3 of the existing 8400 West Subdivision. This item came before the Planning Commission in June and was tabled due to unfinished county department reviews and the need for a geotechnical report. The geotechnical report has since been submitted along with an updated plat at the end of July. Staff submitted the updated plat to the applicable county departments for review. The County Surveyor and the GIS Department still had the same concerns as their first review. The County Engineer's concerns were more limited, but not all items have been completed.

Jeff Nelsen, Engineer, said he is not sure everyone has the fully updated plat. Some of the comments regarding the storm water retention and detention were updated and show on the revised plat.

Commissioner Mellonee Wilding stated the Planning Commission needs to base their decision with information and reviews from the updated plat. She feels the request need to be left as tabled.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to leave application SS24-015, a preliminary plat for the 8400 West Subdivision, tabled for up to the original 6 months from the meeting in June. The motion was seconded by **Commissioner Vance Smith** and unanimously carried.

CONDITIONS:

1. Compliance with review and approval by the County Surveyor, Engineer, Fire Marshal, Planning & Zoning, Roads Department, and Building Official.
2. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.
3. Compliance with Chapter 6-1, Subdivisions, of the Box Elder County Land Use Management & Development Code.
4. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

PUBLIC HEARINGS

ZONING MAP AMENDMENT, Z21-008, Request for a zone change of 114.55 acres from MU-40 (Multiple Use - 40 acre lots) and RR-1 (Rural Residential - 1 acre lots) to RR-1 (Rural Residential - 1 acre lots), located at approximately 55500 West HWY 30 in the Park Valley area of Unincorporated Box Elder County. ACTION.

Staff stated the applicant is requesting to rezone 114.55 acres located at Green Rock Canyon Road and SR-30 in the Park Valley area. The surrounding land use is Agricultural and the surrounding zones are MU-40 and RR-1. The current RR-1 and MU-40 zones were adopted August 23, 1982.

Staff said this item came before the Planning Commission in May of 2021. A recommendation of denial was passed based upon the lack of infrastructure, police, fire, water and the potential impact on Park Valley schools. The applicant failed to proceed to the County Commission within a reasonable period of time and the application expired. He is now starting the process again.

Staff explained there are 4 approval standards for reviewing zoning map amendments. a) whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan; b) whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property; c) the extent to which the proposed amendment may adversely affect adjacent property; d) the adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.

The public hearing was then opened for comments.

Bruce Pugsley, Applicant, stated he wants to rezone the property for family reasons. The property won't be used for development, just for his children to build homes on. He said the county wants to re-open the gravel pit for use on county roads. Pressure equipment has already been moved in. He is at a loss as to what to do and does not want to stop the county after giving the county a verbal okay. Mr. Pugsley said when he made this request in 2021 the whole purpose was mistaken by those who were opposed to it. He reiterated the purpose is not for development but for family and added the ones opposed to the zone change already have their property in RR-1.

Kellie Kunzler, Park Valley, said her property is the Kunzler Family Ranch LLC bordering Mr. Pugsley's property on the west. The surrounding property is zoned RR-1 and she feels Mr. Pugsley has the same right as anyone else to have his property zoned RR-1.

Staff read into the record comments from two individuals who could not attend the public hearing. John A Kunzler stated "I am not in favor of the rezoning in the Park Valley area. My understanding of the RR-1 is 1-acre lots. This would have the capability of being Dove Creek Subdivision again. My family has irrigation ditches through the property making it difficult to handle in a subdivision. Culinary house wells would affect my downstream water rights. I do not believe the rezoning would be a benefit to the Park Valley community. Thank you for looking into this matter." The other comment was from Alan C. Kunzler who stated, there is no need for 100+ one acre lots in the Park Valley area. There is concern this could turn into another Dove Creek Estates. There is the unknown of once the land is passed on to children, anything could happen with it as far as sale and/or development. There is already 20 acres zoned for one acre lots. Mr. Kunzler added he is okay with moving any of the 1-acre lots already zoned, to anywhere on that land he is wanting redone.

Hearing no further comments, a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on Zoning Map Amendment Z21-008. The motion was seconded by **Commissioner Vance Smith** and passed unanimously.

ACTION

Chairman Mellonee Wilding stated the plans the property owner has for the property is something the commission cannot take into consideration, they have to consider the potential of what those 100 acres could be if the property is zoned RR-1.

Staff explained the application could be modified and brought before the Planning Commission at a later date.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to table application Z21-008, a zoning map amendment from the MU-40 (Multiple Use 40 acre) and RR-1 to the RR-1 (Rural Residential 1 acre) zone for up to 6 months allowing the applicant time to work with the County Planners and modify the request. The motion was seconded by **Commissioner Vance Smith** and passed unanimously.

ORDINANCE TEXT AMENDMENT, Z24-009, Request for a text amendment to Section 3-2-010(B), Purpose - Agricultural, of the Box Elder County Land Use Management & Development Code. ACTION.

Staff explained a request has been made to amend Chapter 3-2, Multiple Use, Agricultural, and Rural Residential, of county code. The amendment would remove the ability for the A ½ zone to be used in the future. The verbiage for the A ½ zone would be left to regulate the existing parcels zoned A ½.

Staff read the standards for reviewing zoning text amendments as they apply to this request as follows:

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 apply to all areas of unincorporated Box Elder County.

C. The extent to which the proposed amendment may adversely affect adjacent property; The proposed amendment should not adversely affect adjacent property. The public hearing process may shed additional light on this subject.

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 text amendment should not have an effect on the adequacy of facilities.

Staff said the Planning Commission will need to determine if this application meets the standards in Section 2-2-080.

The public hearing was then opened for comments.

Hearing no comments, a motion was made by **Commissioner Jed Pugsley** to close the public hearing on the Ordinance Text Amendment Z24-009. The motion was seconded by **Commissioner Jared Holmgren** and passed unanimously.

ACTION

MOTION: A Motion was made by **Commissioner Jed Pugsley** to forward a recommendation of approval to the County Commission for application Z24-009 a request for a text amendment to Section 3-2-010(B), Purpose - Agricultural, of the Box Elder County Land Use Management & Development Code, and adopting the conditions and findings of staff. The motion was seconded by **Commissioner Jennifer Jacobsen** and passed unanimously.

CONDITIONS:

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Section 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

(See Attachment No. 2 – Proposed Text Amendment.)

ORDINANCE TEXT AMENDMENT, Z24-010, Request for a text amendment to Section 2-1-050, Land Use Authority, of the Box Elder County Land Use Management & Development Code. ACTION.

Staff stated the proposed amendment would address yearly meeting attendance requirements for Box Elder County Planning Commissioners. The text amendment also addresses some general cleanup of the section. These amendments are decided upon by the County Commission with a recommendation from the Planning Commission.

Staff read the standards for reviewing text amendments as they apply to this request as follows:

A. Whether the proposed amendment is consistent with goals, objectives and policies of the County’s General Plan; The County’s General Plan states that future land use decisions will consider the following: promoting development patterns consistent with, and sensitive to, resident preferences; and balancing private property rights with public interests.

B. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property; This text amendment would only apply to the requirements for the county’s volunteer Planning Commissioners. The Planning Commission needs to decide if this amendment would be harmonious.

C. The extent to which the proposed amendment may adversely affect adjacent property; 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 text amendment is county-wide and should not have an effect on the adequacy of facilities.

The public hearing was then opened for comments.

Hearing no comments, a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on the Ordinance Text Amendment, Z24-010. The motion was seconded by **Commissioner Vance Smith** and passed unanimously.

ACTION

Staff summarized the content of the amendment as requiring commissioners to attend at least 8 meeting per year and general clean-up of the chapter.

MOTION: A Motion was made by **Commissioner Jed Pugsley** to forward a recommendation of approval to the County Commission for application Z24-010 a request for a text amendment to Section 2-1-050, Land Use Authority of the Box Elder County Land Use Management & Development Code and adopting the conditions and findings of staff. The motion was seconded by **Commissioner Jared Holmgren** and passed unanimously.

CONDITIONS:

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

(See Attachment No. 3 – Proposed Amendment.)

ZONING MAP AMENDMENT, Z24-011, Request for a zone change of 2 acres from RR-20 (Rural Residential – 20,000 sq. ft.) to C-N (Neighborhood Commercial), located at approximately 6100 West 4000 North in the Corinne area of Unincorporated Box Elder County. ACTION.

Staff said the applicant is requesting part of parcel 04-071-0008, located in the West Corinne area, be rezoned from RR-20 (Rural Residential 20,000 sq. ft.) to the C-N (Neighborhood Commercial) zone. The surrounding land uses are Agricultural and Rural Residential, the surrounding zones are RR-20.

Staff read the standards for reviewing zoning map amendments as they apply to this request:

A. Whether the proposed amendment is consistent with goals, objectives and policies of the County’s General Plan; The County’s General Plan states that the West Corinne area is primarily agricultural with large lot single family and that the vision for the area suggests continuing the agricultural heritage, while allowing for some flexible lot sizes through rural residential clustering, and expanding the industrial/warehousing uses in the area.

B. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property; The area is a combination of mainly agricultural uses and some residential homes. The Planning Commission needs to decide if a commercial zone could be considered harmonious.

C. The extent to which the proposed amendment may adversely affect adjacent property; The proposed amendment shouldn’t affect the values of adjacent property. The public hearing process may bring forth additional information.

D. The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection. It is likely that the facilities and services already exist, the developer would have to verify this and bring them into the project.

Staff listed some of the allowed uses in the C-N zone such as bus terminals, private garages, drive-in restaurants, family clothing, farm and garden supply equipment, gasoline service stations, groceries, mail order houses, merchandise vending machine operators, retail activities, shopping complexes for retail trade, automatic car wash, auto repair, beauty/barber shops, plumbing heating and air conditioning services, private clubs, sports activities, professional health care offices and clinics, medical/dental offices, and reception centers which is at the center of this request.

The public hearing was then opened for comments.

Tyson Ross has property directly north of the parcel being discussed. He stated there are no other houses on the property adjacent to it. Where everything usually happens at night with event centers he is concerned with vandalism, burning haystacks and trespassing for additional parking. Mr. Ross said he is not opposed to what the applicants want to do with their property as long as it does not affect his property.

Mike Kilts stated he is a partner with Dan Norman in this endeavor. He would like to have surveillance installed in the front area and said he will keep the property cleaned up.

Dan Norman, applicant, acknowledged the concerns expressed regarding the events center. He stated he is a responsible business owner and does not want any safety issues. Parking will not be a problem as it is an 8-acre parcel. If more ground is needed for parking, we will make it happen. We want to provide a service to the community. Noise, vandalism and other concerns can be mitigated through contracts with those using the property. Security and vandalism will be taken into consideration, security cameras are already installed. Mr. Norman said he is not excited about growth as a property owner and farmer either, but he knows growth is coming and there is not a lot he can do about it.

Charles Holmgren and his brother own property 600 ft. east of the Norman's property. He has similar concerns as Mr. Ross with parking and vandalism. If everything works as it should, he is fine with it, but if not, it could become quite a burden on his family farm.

Jeremy Cox, also owns property in the area and does not want to tell others what to do with their property. He knows growth is coming and feels if the applicant is responsible with security and monitoring the parking and he does not end up with escaping brides on his property, he should be good.

Hearing no further comments, a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on the Zoning Map Amendment, Z24-011. The motion was seconded by **Commissioner Lonnie Jensen** and passed unanimously.

ACTION

Staff explained the Planning Commission will need to decide if the proposed zoning map amendment meets the Approval Standards found in Section 2-2-080(E) of the Box Elder County Land Use Management and Development Code.

Commissioner Jennifer Jacobsen thinks the request for commercial zoning is not harmonious with the surrounding zones of agricultural and residential. Also, the road would not provide good access for a commercial property.

Commissioner Bonnie Robinson agreed there are concerns with the road being a gravel road. She thinks the road would not be sustainable for all the uses allowed in the C-N zone. She feels it is a bit of a stretch to consider the allowed uses in the C-N zone as being harmonious with the surrounding zones.

Commissioner Mellonee Wilding feels the job of the Planning Commission is to protect the interests of the county. If the request was to rezone 2 acres off a large parcel with a paved road, and the dirt road was a private road the applicant maintained, she would be much more accommodating. The maintenance of this road would be funded by county tax payers which makes her uncomfortable to approve the request.

Commissioner Vance Smith said he does not see proof of adequate facilities for any of the allowed uses in the C-N zone, and while the commission can block those uses at the conditional use stage, he feels no precedence has been set to move forward with commercial zoning in the area. As much as he tries not to look forward to the next step, and just stick with the guidelines the commission has to adhere to, he feels this site is not the best for the C-N zone.

MOTION: A Motion was made by **Commissioner Jennifer Jacobsen** to forward a recommendation of denial to the County Commission for application Z24-011, a zoning map amendment from RR-20 (Rural Residential 20,000 sq. ft.) to the C-N (Neighborhood Commercial) zone based on not being harmonious with the overall character of the area and inadequacy of roadways. The motion was seconded by **Commissioner Jed Pugsley** and passed unanimously.

NEW BUSINESS

MILLS SUBDIVISION FIRST AMENDMENT, SS24-020, Request for an amendment to the final plat of the Mills Subdivision, located at approximately 11336 N 4400 W in the Tremonton area of Unincorporated Box Elder County. ACTION.

Staff said the applicant is requesting an amendment to adjust Lot 1 from 2.081 acres to 2.082 acres by adjusting the property lines. The surrounding land uses are Agricultural and Rural Residential; surrounding zones are Unzoned. Staff explained per state code, a subdivision can be amended by approval from the land use authority and the recording of an amended plat. The Planning Commission's role is to ensure a proposed subdivision is consistent with established ordinances, policies and planning practices of the county. Following the Planning Commission's review and

approval of a subdivision amendment application, it will be recorded in the office of the Box Elder County Recorder.

Staff stated all applicable departments have approved the amended subdivision plat and recommends approval with the conditions listed below.

MOTION: A Motion was made by **Commissioner Jed Pugsley** to approve application number SS24-020, amending the Mills Subdivision First Amendment, located in the Tremonton area of unincorporated Box Elder County, and adopting the exhibits, conditions and findings of staff. The motion was seconded by **Commissioner Vance Smith** and unanimously carried.

CONDITIONS:

1. Approval of the title report from the County Attorney.
2. Compliance with Sections 17-27a-608 and 609 of the Utah State Code.

WORKING REPORTS

Heritage Homestead – RV Park Text Amendment

The Commissioners discussed their thoughts on RV Parks in Unincorporated Box Elder County. The General Plan states roads and density should be in the cities and RV Parks are a high density type of living. The Commissioners like the idea of agritourism and dry camping but had questions regarding water and sewer hookups, limited number of days to stay, and police protection. The commission directed staff to review the current code regarding RV Parks and bring it up to date.

Staff explained the applicant asked for this request to be presented as a working report, knowing it would consist of a large overhaul of what currently exists in county code and wanted feedback. The applicant will need to hold a public hearing within 6 months of the application. The Planning Commission would then give a referral to the County Commission. If the applicant does not go through the process within 6 months, the application expires.

PUBLIC COMMENTS - NONE

ADJOURN

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to adjourn commission meeting. The motion was seconded by **Commissioner Lonnie Jensen** and meeting adjourned at 8:30 p.m.

Mellonee Wilding, Chairman
Box Elder County Planning Commission

**PLANNING COMMISSION
 STAFF REPORT**

**Meeting Date: September 19, 2024
 Agenda Item #: 5a**

Application Type:

Preliminary Subdivision
 Amend & Extend

APPLICANT(S):

Blaine Rupp

PROJECT #:

SS24-015

ADDRESS:

10100 N 8400 W
 Tremonton area

ZONE:

Unzoned

PARCEL #:

05-083-0036

REPORT BY:

Scott Lyons,
 Community Development
 Director

BACKGROUND

The applicants are requesting preliminary approval of the 8400 West Amend and Extend Subdivision plat. The proposed subdivision is for five new lots approximately 1 acre in size and also extends the property line on Lot 3 of the existing 8400 West Subdivision. The existing parcel is 29.38 acres in size and this phase will leave a 21.72 acre remainder parcel.

UPDATE: This came before the Planning Commission in June and was tabled due to county departments requesting a geotechnical and soils report as well as review items from the County Surveyor, Fire Marshal, Engineer, Roads, and Planning departments. The applicant has since submitted the geotechnical report and an updated subdivision plat. Those items were sent out for review. The Fire Marshal has approved the proposal. County GIS and Surveyor provided reviews with a few items to be addressed. The applicant's surveyor is making those changes. Staff will update the Planning Commission as follow up reviews/comments are made.

ANALYSIS

Land Use Ordinance Standards Review:

Land Use Management & Development Code 6-1-130 requires the subdivision of property receive preliminary approval from the Box Elder County Planning Commission.

Surrounding Land Use and Zoning:

<u>Direction</u>	<u>Land Use</u>	<u>Zoning</u>
North	Agriculture/Rural Residential	Unzoned
South	Agriculture/Rural Residential	Unzoned
East	Agriculture/Rural Residential	Unzoned
West	Agriculture	Unzoned

Access:

Access would be via County road 8400 West connecting to a proposed new road, 10100 North and a cul-de-sac 8475 West.

Utilities:

The County has received utility will-serve letters from Miller Gas, Rocky Mountain Power, and culinary water through West Corinne Water Company. We have also received a septic feasibility letter from the Bear River Health Department. This feasibility letter is for a single conventional wastewater system to be installed to service a single-family dwelling on each proposed lot.

Setbacks:

All setbacks for unzoned areas can be met. Setbacks will be reviewed and enforced during the building permit process.

County Department Reviews:

County Surveyor

- Has requested changes to street and lot addressing and the storm water infrastructure.

County Engineer

- Has requested changes to the improvement drawings. These changes will be addressed as part of the Final Plat review and approval.

Fire Marshal

- Has approved the proposed Preliminary Plat.

Planning & Zoning

- The subdivider must work with USPS for location and type of mailbox(s). The location(s) must be shown on the plat.

An update will be provided at the Planning Commission meeting.

Findings:

Based on the analysis of the proposed subdivision preliminary plat and a survey of surrounding area, staff concludes the following:

1. The preliminary plat as currently proposed does not comply with County development standards.
2. The applicant's surveyor/engineer is currently revising the plat based on County reviews.
3. Modifications to the proposed preliminary plat may be made to bring it into conformance with the County Land Use Management & Development Code.

RECOMMENDATION

Based on the information presented in this report, application materials submitted and the site review, **the Planning Commission may TABLE or may APPROVE the proposed preliminary plat based on the findings above and any others the Planning Commission finds. Should the Planning Commission approve the plat staff recommends the approval include the conditions below:**

1. Submission of a geotechnical and soils report based on the county's public works standards.
2. Compliance with review and approval by the County Surveyor, Engineer, Fire Marshal, Planning & Zoning, Roads Department, and Building Official.
3. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.
4. Compliance with Chapter 6-1, Subdivisions, of the Box Elder County Land Use Management & Development Code.
5. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

MODEL MOTIONS

Approval – “I move the Planning Commission approve application number SS24-015, a preliminary plat for the 8400 West Amend and Extend Subdivision, located in unincorporated Box Elder County, and adopting the exhibits, conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

Table – “I move the Planning Commission table application number SS24-015, a preliminary plat for the 8400 West Amend and Extend Subdivision, located in unincorporated Box Elder County, to (give date), based on the following findings:”

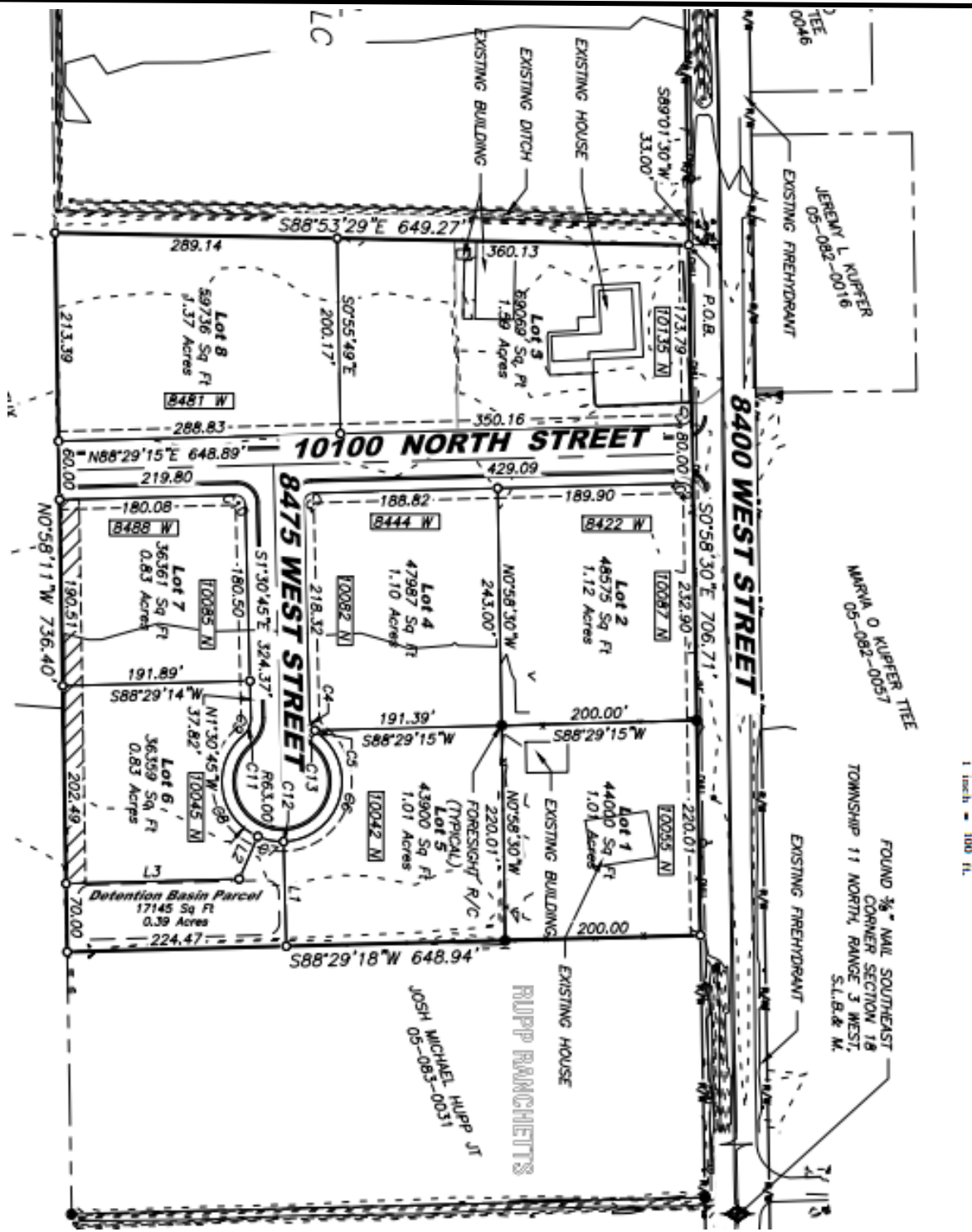
1. List reasons for tabling the item, and what is to be accomplished prior to the next meeting date...

Denial – “I move the Planning Commission deny application number SS24-015, a preliminary plat for the 8400 West Amend and Extend Subdivision, located in unincorporated Box Elder County based on the following findings:”

1. List findings for denial...

Please feel free to contact Scott Lyons at 435-734-3316 with any questions.







PLANNING COMMISSION
STAFF REPORT

Meeting Date: September 19, 2024

Agenda Item #: 5b

Application Type:

Zoning Map Amendment

APPLICANT(S):

Bruce Pugsley

PROJECT #:

Z21-008

ADDRESS:

Green Rock Canyon Rd and
SR-30 in Park Valley

PARCEL #:

07-106-0010, -0011

CURRENT ZONE:

RR-1 and MU-40

TYPE OF ACTION:

Legislative

REPORT BY:

Scott Lyons
Comm. Dev. Director

BACKGROUND

The applicant is requesting that 114.55 acres located at approximately Green Rock Canyon Rd and SR-30 in Park Valley area be rezoned from MU-40 (Multiple Use 40 acre) to the RR-1 (Rural Residential 1 acre) zone. The current RR-1 and MU-40 zones were adopted August 23, 1982.

UPDATE: This application came before the Planning Commission in August and was tabled for up to six months to allow the applicant time to work with staff on modifying the request. The applicant has modified the request to only include land 400 feet east and west from the centerline of Green Rock Canyon Road. This reduces the acreage requested to be included in the rezone down to approximately 41 acres. The applicant feels this is consistent with how zoning is applied with respect to other roads throughout the Park Valley area. (shown on maps below)

ANALYSIS

County Code:

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

Surrounding Land Use and Zoning:

<u>Direction</u>	<u>Land Use</u>	<u>Zoning</u>
North	Agriculture	MU-40
South	Agriculture	RR-1
East	Agriculture	RR-1, MU-40
West	Agriculture	RR-1, MU-40

Land Use Ordinance Standards Review:

Box Elder County Land Use Management & Development Code section 2-2-060-A states that zoning map amendments are a legislative proceeding. Per said section:

Decisions regarding a legislative application shall be based on the “reasonably debatable” standard, as follows:



-
- The decision-making authority shall determine what action, in its judgment, will reasonably promote the public interest, conserve the values of other properties, avoid incompatible development, encourage appropriate use and development, and promote the general welfare.
 - In making such determination, the decision-making authority may consider the following: (1) Testimony presented at a public hearing or meeting; and (2) personal knowledge of various conditions and activities bearing on the issue at hand, including, but not limited to, the location of businesses, schools, roads and traffic conditions; growth in population and housing; the capacity of utilities; the zoning of surrounding property; and the effect that a particular proposal may have on such conditions and activities, the values of other properties, and upon the general orderly development of the County.
 - The decision-making body should state on the record the basis for its decision.

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

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

The County General Plan states that the County will encourage and support design and development strategies that preserve open space, particularly those developed to preserve agricultural land.

It also states that future land use decisions will consider the following:

- *maintaining the current quantity and quality of public services and facilities through balancing growth and development with facility/service capacity e.g. water, sewer, waste disposal, transportation and roads, law enforcement, emergency services;*
- *protecting rural, agricultural, mineral, wildlife and other County interests or traditional land uses;*
- *promoting development patterns consistent with, and sensitive to, resident preferences; and*
- *balancing private property rights with public interests.*

It is the County's position that future residential development should complement other County interests and be located in areas that are compatible with adjacent land uses.

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

The area is primarily rural residential/agricultural. The rural residential is zoned for one-acre lots with development along the existing roads and a core area in Park Valley. This property is just on the fringe of that core.

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



This is unknown. The amendment would increase the density on this acreage. Some of the adjacent parcels are already zoned entirely RR-1. The public hearing process may shine additional light on adverse effects.

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.

Water in this area is via well or spring and is approved by the State Division of Water Rights. Individual septic systems approved by the Bear River Health Department would be required for any building permit. The landowner may be required to improve roads, storm water, culinary water and other facilities/services listed if development is pursued.

FINDINGS:

Based on the analysis of the zoning map amendment application request for the rezone of the subject parcel from MU-40 (Multiple Use 40 acre) to the RR-1 (Rural Residential 1 acre) and a survey of the surrounding area, staff concludes the following:

1. The Box Elder Land Use Management and Development Code allows for the rezone of properties subject to zoning map amendment review procedures and approval.
2. The Planning Commission is tasked with making a recommendation to the County Commission based on “reasonably debatable” findings from the above information, information presented during the public hearing, and any additional information requested of the applicant or staff.

RECOMMENDATION

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

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

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

MODEL MOTIONS



Approval – “I move the Planning Commission forward a recommendation of approval to the County Commission, application number Z21-008, a zoning map amendment from the MU-40 (Multiple Use 40 acre) to the RR-1 (Rural Residential 1 acre) zone and adopting the conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

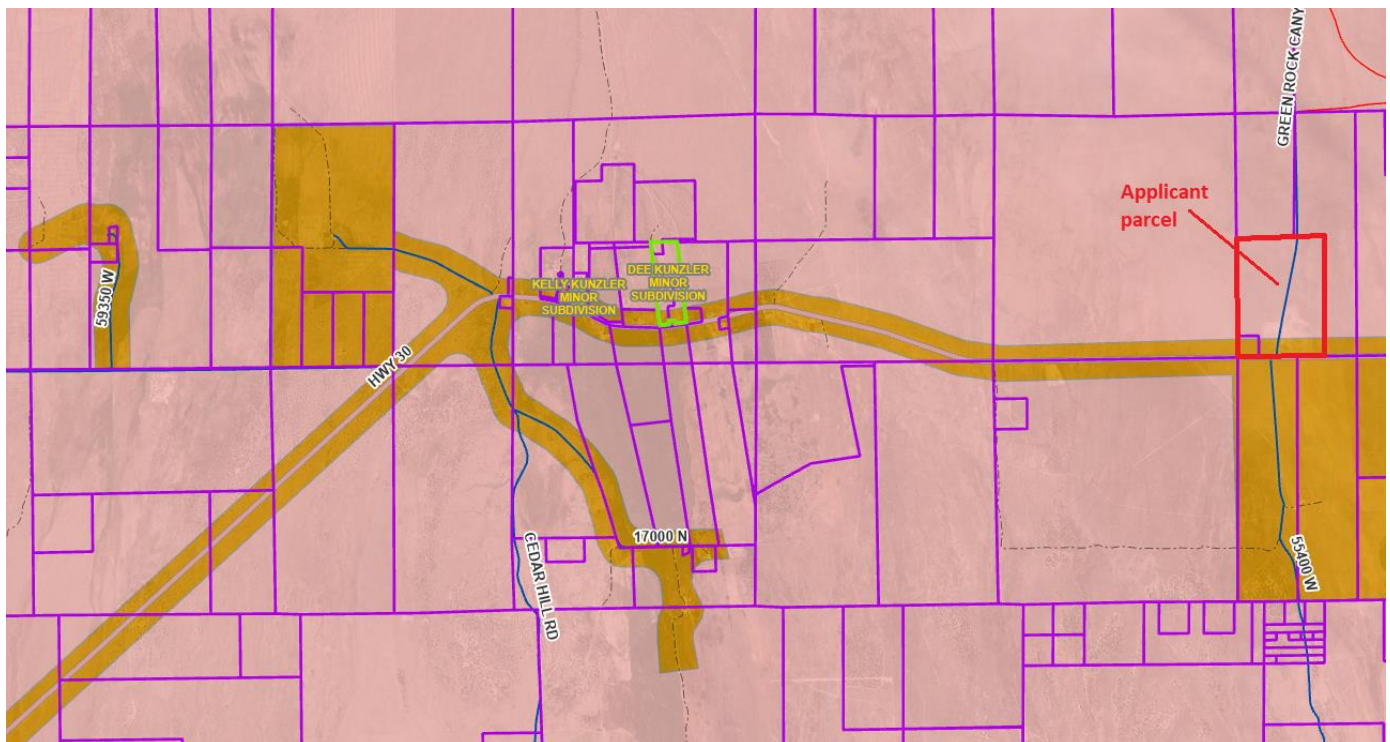
Table – “I move the Planning Commission table the review of application number Z21-008, a zoning map amendment from the MU-40 (Multiple Use 40 acre) to the RR-1 (Rural Residential 1 acre) zone to (give date), based on the following findings:”

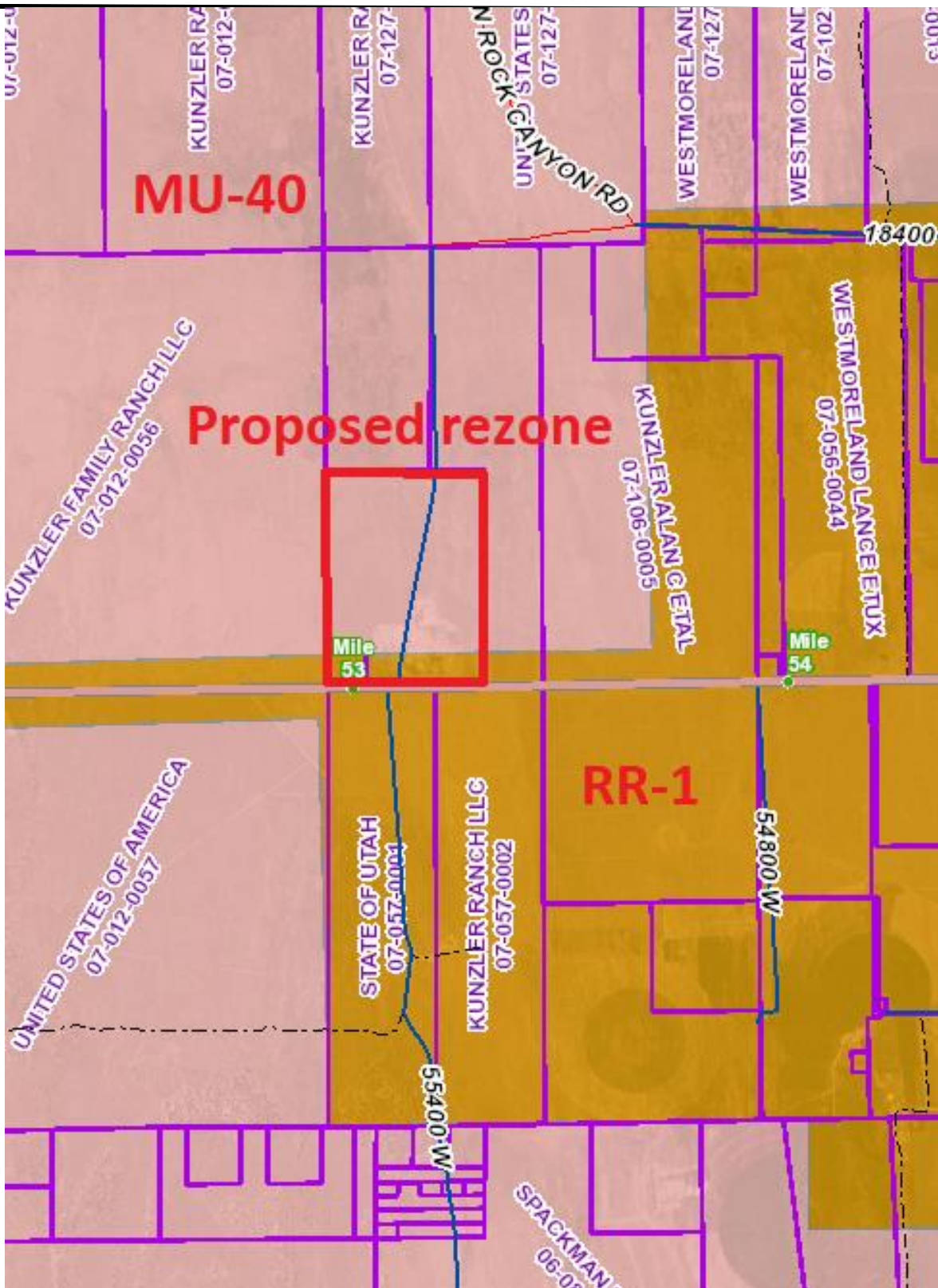
1. List reasons for tabling the item, and what is to be accomplished prior to the next meeting date...

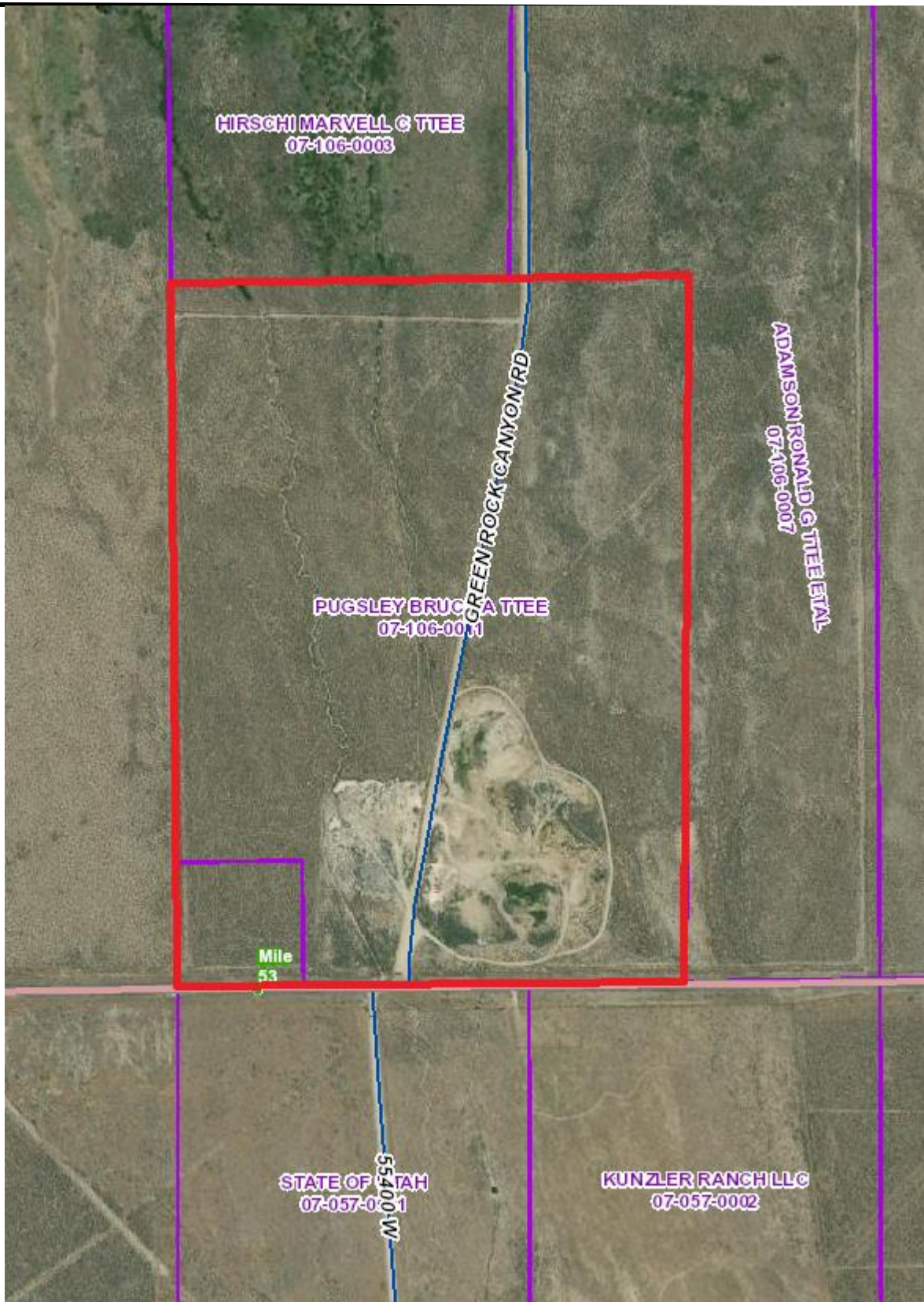
Denial – “I move the Planning Commission forward a recommendation of denial to the County Commission, application number Z21-008, a zoning map amendment from the MU-40 (Multiple Use 40 acre) to the RR-1 (Rural Residential 1 acre) zone based on the following findings:”

1. List findings for denial...

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









PLANNING COMMISSION
STAFF REPORT

Meeting Date: September 19, 2024
Agenda Item #: 6a

Application Type:

Ordinance Text Amendment

APPLICANT(S):

Box Elder County

PROJECT #:

Z24-012

ORDINANCE:

Chapter 2-2

TYPE OF APPLICATION:

Legislative

REPORT BY:

Marcus Wager,
County Planner

BACKGROUND

A request has been made to amend Chapter 2-2, Administrative & Development Review Procedures. The amendment is mainly for cleaning things up in the Chapter, although it does completely change the ADCUP Section. The Planning Commission needs to pay particular attention to the Site Plan Section. (See attached for proposed verbiage).

ANALYSIS

County Code:

The Box Elder Land Use Management & Development Code 2-2-080.C allows authorized county staff to initiate amendments to the 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 apply to all areas of unincorporated Box Elder County.
- C. The extent to which the proposed amendment may adversely affect adjacent property; and**
The proposed amendment should not adversely affect adjacent property. The public hearing process may shed additional light on this subject.
- 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 text amendment should not have an effect on the adequacy of facilities.

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. The Planning Commission will need to determine if this application meets the standards in Section 2-2-080.

RECOMMENDATION

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

If a recommendation of approval is forwarded to the County Commission staff recommends it be subject to the following conditions:

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Section 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

MODEL MOTIONS

Approval – “I move the Planning Commission forward a recommendation of approval to the County Commission, application number Z24-012, an ordinance text amendment 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 Z24-012, an ordinance text amendment 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 Z24-012, an ordinance text amendment 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.

Proposed Text Amendment:

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.

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.
- 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:
 - 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 processed** 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 thereunder shall terminate.

L. Expiration of Application. If within two (2) years after an application has been filed the application has not been approved or denied by the decision making body, the application shall expire and any vested rights accrued thereunder shall terminate.

2-2-050. Public Hearings and Meetings.

- 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:
 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. Public Notice Classifications and Requirements:** Notices for applicable public hearings or public meetings shall comply with Section 63G-30-102 of the Utah Code; and more particularly:
 - a. Class A Notice shall be published on the Utah Public Notice Website, the Official Box Elder County Website, and the affected area.

-
1. If the affected area is the unincorporated area of Box Elder County, the public notice will be posted at the County building.
 2. If the affected area is a public street, the public notice will be posted on or adjacent to the public street.
 3. If the affected area is an easement, the public notice will be posted on or adjacent to the easement; or in a public location that is reasonably likely to be seen by persons who are likely to be impacted by the easement.
- b. Class B Notice shall be published on the Utah Public Notice Website, the Official Box Elder County Website, and the affected area.
1. For ordinance text amendments the area directly affected shall be the unincorporated area of Box Elder County and the public notice will be posted at the County building.
 2. For zoning map amendments, the area directly affected shall be the parcel(s) or lot(s) that have petitioned for the amendment. The public notice will be posted on the property that has petitioned for the amendment. In addition, the private real property owner and adjacent property owners to the proposed amendment will be sent a courtesy notice.
- 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* 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.

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;
 - e. Building permit;
 - f. Nonconformity;

-
- g. Sign permit;
 - h. Subdivision review;
 - i. Temporary use permit;
 - j. Administrative interpretation; **and**
 - k. Appeal of administrative decision;
 - l. Administrative conditional use permit; and
 - m. Special event permit.

- 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.
 - 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 ½ 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 County shall give a Class A notice on the proposed amendment as provided in Section 2-2-050 of this Code and Utah Code 17-27a-204 as amended.
 - a. Each notice of a public hearing shall be at least ten (10) calendar days before the public hearing.
 - b. Each notice of a public meeting shall be at least twenty four (24) hours before the meeting.
 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.

- 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.
- 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~~ **200** 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 ~~an affidavit of~~ **notarized** 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~~ current and proposed zoning classifications; and all abutting properties showing ~~present~~ current zoning classifications.
 - 2) An accurate legal description and ~~an approximate common address~~ parcel number 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 County shall give a Class A or a Class B notice on the proposed amendment as provided in Section 2-2-050 of this Code and Utah Code 17-27a-205 as amended.
 - a. Each notice of a public hearing shall be mailed to each affected entity and be noticed as a Class B notice for at least ten (10) calendar days before the day of the public hearing.
 - b. Each notice of a public meeting shall be at least twenty four (24) hours before the meeting and shall be published as a Class A notice.
 - c. A Class B notice shall be given to the owner of private real property whose property is located within the proposed zoning map enactment or amendment at least ten (10) calendar days before the scheduled day of the public hearing, as provided in Section 2-2-050 of this Code and Utah Code 17-27a-205-5 as amended.
 - d. A Class B notice shall be given to adjacent property owners to a proposed zoning map amendment as provided in Section 2-2-050 of this Code.
4. Following the public hearing and review of the application the Planning Commission shall thereafter submit its recommendation for approval, approval with modifications, or denial thereof to the County Commission. After due consideration of the recommendation from the Planning Commission, the County Commission may approve, approve with modifications, or deny the proposed amendment in a public meeting.

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~~ shall 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
 - 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 notarized 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.
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~~ **the Box Elder County Public Works Standards** 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 2-2-190 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.
- I. Revocation.** A permitted use approval may be revoked as provided in Section 2-4-070 B of this Code.
- M. 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.** The purpose of this chapter is to provide for a reasonable application, review, and approval process for land uses that are specified as "conditional," such that proposed new land uses meet County standards, State Law, and are properly integrated into the County through the imposition of conditions, based on standards. Standards are intended to mitigate the reasonably anticipated detrimental effects of a particular conditional use. Conditional uses shall be approved on a case-by-case basis provided the applicant adequately demonstrates that the reasonably anticipated detrimental effects of the proposed use can be mitigated through the imposition of reasonable conditions, based on standards in the ordinance.
- B. Authority.** The Planning Commission is designated as the Land Use Authority to issue conditional use permits as provided in this section.
- C. 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.

D. Procedure. An application for a 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 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 conditional use;
 - e) A plot plan showing the following:
 - 1) Applicant's name;
 - 2) Site address;
 - 3) Property boundaries and dimensions;
 - 4) A site plan/layout, drawn to scale, of existing and proposed buildings, conceptual building elevations showing building materials, conceptual stormwater design, parking/on-site circulation, landscaping, conceptual lighting plan, proposed access, and letters of assurance from utility companies of their ability to serve the site; and
 - 5) Include on the site plan the adjoining property lines, owners of record, 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 section (E);
 - 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 give a Class A notice of 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 or his designee.
4. The Planning Commission shall hold a public meeting regarding the application. After due consideration the Planning Commission shall approve, approve with conditions, or deny the application if the standards of the applicable ordinances cannot be mitigated, and the approval standards set forth in Section (E) cannot be met through the imposition of conditions based on those standards.
5. After the Planning Commission makes a decision, the Zoning Administrator shall give the applicant a written letter of agreement of the decision, which includes the Planning Commission

conditions of approval, the site plan, other associated plans/information that was part of the application, and a signature block demonstrating the applicant's agreement to the approval.

6. A record of all conditional 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 conditional use permit.

1. Conditions may be imposed as necessary to prevent or minimize the anticipated detrimental effects of the use on adjacent properties and within the zoning district, or upon public facilities and services. Such conditions shall be expressly set forth in the approval authorizing a conditional use permit.
2. The Planning Commission may request additional information as may be reasonably needed to determine whether the requirements prescribed by this Code and other applicable Codes, can be met or need mitigation.
3. The following standards should be reviewed and considered in determining whether a conditional use permit application should be approved, approved with conditions, or denied:
 - a) Compliance with Development Standards found in specific chapters of this Code
 - b) Mitigation of reasonably anticipated detrimental effects arising from the conditional use including, but not limited to:
 1. Decreased street service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing and design of off-street parking and circulation, loading docks, as well as compliance with off-street parking standards.
 2. Negative impacts on the adequacy of utility systems, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems.
 3. Negative impacts on connectivity and safety for pedestrians and bicyclists.
 4. Detrimental effects by the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable within the district including such effects as environmental impacts, dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins, pathogens, gasses, heat, light, electromagnetic disturbances, glare, and radiation. Detrimental effects by the use may include hours of operation and the potential to create an attractive nuisance.
 5. Environmental impacts that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people such as waste disposal, fire safety, geologic hazards such as fault lines, soil or slope conditions, liquefaction potential, site

grading/topography, storm drainage/flood control, high ground water, environmental health hazards, or wetlands.

6. Modifications to signs and exterior lighting to assure proper integration of the use.
7. Incompatible designs in terms of use, scale, intensity, height, mass, setbacks, construction, solar access, landscaping, fencing, screening, and architectural design and exterior detailing/finishes and colors within the neighborhood in which the conditional use will be located.
8. Reduction in the tax base and property values.
9. Reduction in the current level of economy in governmental expenditures.
10. Insufficient emergency fire service and emergency vehicle access as determined by the County Fire Marshall.
11. Reduction in usable open space
12. Inadequate maintenance of the property and structures in perpetuity including performance measures, compliance reviews, and monitoring.

F. 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~~²-190 of this Code.

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

H. Amendment. Except as may be provided elsewhere in this Code, no element of an approved conditional use permit shall be changed or modified without first obtaining approval of an amended conditional use permit as follows:

1. Alteration or expansion of an approved conditional use permit 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 conditional use permit was approved, or have received a site plan 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 2-2-100(E) of this section;
 - 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 conditional use permit** shall be the same as the procedure for approval of an original **site plan conditional use permit** as set forth in this section.

I. 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 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.

J. Expiration. A conditional use permit shall expire and have no further force or effect if the building, foundation and site grading, activity, construction or occupancy authorized by the permit is not commenced within one hundred eighty (180) days after approval, and 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.

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.

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:
 - ~~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.~~

- ~~e. 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;~~

1. Conditions may be imposed as necessary to prevent or minimize the anticipated detrimental effects of the use on adjacent properties and within the zoning district, or upon public facilities and services. Such conditions shall be expressly set forth in the approval authorizing an administrative conditional use permit.
2. The Zoning Administrator may request additional information as may be reasonably needed to determine whether the requirements prescribed by this Code and other applicable Codes, can be met or need mitigation.
3. The following standards should be reviewed and considered in determining whether an administrative conditional use permit application should be approved, approved with conditions, or denied:
 - a) Compliance with Development Standards found in specific chapters of this Code
 - b) Mitigation of reasonably anticipated detrimental effects arising from the conditional use including, but not limited to:
 1. Decreased street service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing and design of off-street parking and circulation, loading docks, as well as compliance with off-street parking standards.

2. Negative impacts on the adequacy of utility systems, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems.
3. Negative impacts on connectivity and safety for pedestrians and bicyclists.
4. Detrimental effects by the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable within the district including such effects as environmental impacts, dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins, pathogens, gases, heat, light, electromagnetic disturbances, glare, and radiation. Detrimental effects by the use may include hours of operation and the potential to create an attractive nuisance.
5. Environmental impacts that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people such as waste disposal, fire safety, geologic hazards such as fault lines, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, high ground water, environmental health hazards, or wetlands.
6. Modifications to signs and exterior lighting to assure proper integration of the use.
7. Incompatible designs in terms of use, scale, intensity, height, mass, setbacks, construction, solar access, landscaping, fencing, screening, and architectural design and exterior detailing/finishes and colors within the neighborhood in which the conditional use will be located.
8. Reduction in the tax base and property values.
9. Reduction in the current level of economy in governmental expenditures.
10. Insufficient emergency fire service and emergency vehicle access as determined by the County Fire Marshall.
11. Reduction in usable open space
12. Inadequate maintenance of the property and structures in perpetuity including performance measures, compliance reviews, and monitoring.

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~~ 2-190 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 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~~)

- 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~~ **notarized** 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. **1.** 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. ~~2.~~ **2.** ~~When a conceptual site plan, or a site plan, approval is required, n~~ 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 **site** 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. **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.**

~~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 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. **1.** A site plan application shall include at least the following information:

- 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 d)~~ to ~~(H h)~~ of this subsection. The information required by each subsection shall be shown on separate sheets. Plans shall be ~~4~~ 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~~ and shall be submitted in PDF format. Except for the landscaping plan, the plans shall be prepared, stamped and signed by a professional engineer licensed by the state of Utah and the architectural plans shall be prepared, stamped and signed by a professional, licensed architect 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.
 - 10) As per the international fire code, fire and emergency vehicle access shall be shown.
- 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;
 - 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 international building code and international fire code for the proposed structures, and fire flow calculations at all hydrant locations;
 - 4) As per the international fire code, an engineer's approved, stamped fire suppression system plans.
 - 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. All lighting shall conform to Chapter 5-9, Outdoor Lighting Standards; and
 - 4) Location and dimensions of signs proposed to be attached to the building or structure. All signs shall conform to Chapter 5-3, sign regulations; and
 - 5) Architectural guidelines, including occupancy levels and parking requirements.
- 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.
 - 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. 2. After the application is determined to be complete, the Zoning Administrator shall schedule a public meeting before the Planning Commission.
 - 5. 3. A staff report evaluating the application may be prepared by the zoning Administrator.
 - 6. 4. The Planning Commission shall give a Class A notice of 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. **5.** 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~~ **completed**, 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. **6.** A record of all site plan approvals shall be maintained in the office of the Zoning Administrator.

F. 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. 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:~~
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:

~~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.
2. ~~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.~~
3. ~~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; **and** 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.
- 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.

G. 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 2-2-190 of this Chapter.

H. 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 2-2-120(E) of this section;
 - 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 **for failure to conform to the approved site plan or** as provided in Section 2-~~4~~ **4-070(B)** 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.~~

1. ~~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 notarized** authorization.

- D. Procedure.** An application for a variance 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 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 give a Class A notice of a public meeting before the Hearing Officer as provided in Section 2-2- 050 of this Code.
 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

2-2-130(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.
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 **or a designee** 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
 - 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 2-2-140(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, **as per guidelines from the State of Utah.**

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 2-2-190 of this Code.

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~~ or Hearing Officer, on appeal, are authorized to make determinations regarding the existence, expansion or modification of a nonconforming tyng 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 ~~an affidavit of~~ notarized 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
 - 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~~ 190 of this Chapter.
 4. A staff report evaluating the application may be prepared by the Zoning Administrator.
 5. The County shall give a Class A notice of a public meeting. After due consideration the Hearing Officer shall approve, approve with conditions or deny the application pursuant to the standards set forth in Section 2-2-150(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.

- A. Purpose.** This section sets forth procedures for considering and approving a temporary use permit.
- B. Authority.** The ~~Planning Commission~~ **Zoning Administrator or a designee** 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.
 4. The Planning Commission shall give a Class A notice of a public meeting 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 2-2-190 of this Code.
- 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 2-4-06 **70(B)** 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);
 - 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 canceled 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 2-2-170(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:
 - 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 2-2-190 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 2-4-06 70(B) 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.

-
- 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 2-2-180(e 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.
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~~ **Hearing Officer** as provided in Section 2-2-190 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.

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 2-2-190(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 give a Class A notice and 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.
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.

- 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.



PLANNING COMMISSION STAFF REPORT

Meeting Date: September 19, 2024
Agenda Item #: 6b

Application Type:
Ordinance Text Amendment

APPLICANT(S):
Box Elder County

PROJECT #:
Z24-013

ORDINANCE:
Chapter 5-1-380: Swimming Pools

TYPE OF APPLICATION:
Legislative

REPORT BY:
Destin Christiansen,
County Planner

BACKGROUND

The applicant is requesting a text amendment to add Section 5-1-380: Swimming Pools to the Box Elder County Land Use Management & Development Code. The proposed amendment would address requirements for the location, design, and construction of swimming pools (both public and private) within unincorporated Box Elder County.

ANALYSIS

County Code:

The Box Elder Land Use Management & Development Code 2-2-080(C) allows authorized county staff to initiate amendments to the text of the Box Elder County Land Use Management & Development Code. These amendments are decided upon by the County Commission with a recommendation from the Planning Commission.

Land Use Ordinance Standards Review:

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

- A. Whether the proposed amendment is consistent with goals, objectives and policies of the County’s General Plan;**
The County’s General Plan states that future land use decisions will consider the following: promoting development patterns consistent with, and sensitive to, resident preferences; and balancing private property rights with public interests.
- B. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;**
This text amendment would apply to those individuals or entities wishing to build swimming pools within unincorporated Box Elder County. The Planning Commission needs to decide if this amendment would be harmonious.
- C. The extent to which the proposed amendment may adversely affect adjacent property; and**
This addition of code helps ensure that there would not be an adverse effect on 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 text amendment is county-wide and should not have an effect on the adequacy of facilities.

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. The Planning Commission will need to determine if this application meets the standards in Section 2-2-080.

RECOMMENDATION

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

If a recommendation of approval is forwarded to the County Commission, staff recommends it be subject to the following conditions:

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.
3. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

MODEL MOTIONS

Approval – “I move the Planning Commission forward a recommendation of approval to the County Commission, application number Z24-013, an ordinance text amendment 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 Z24-013, an ordinance text amendment 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 Z24-013, an ordinance text amendment based on the following findings:”

1. List findings for denial...

Please feel free to contact Destin Christiansen at 435-695-2547 if you have any questions.

5-1-380. Swimming Pools.

This section shall apply to any commercial, public, or private swimming pool to be constructed within the unincorporated boundaries of Box Elder County.

- A. A swimming pool shall be permitted as an accessory use to the side or rear of a private dwelling or commercial/public facility provided the location of the swimming pool or accessory machinery shall not be less than ten (10) feet from any property line; however, if a zone requires a larger setback or if easement(s) exist the more restrictive requirement shall apply. Structures that enclose the pool accessory machinery are permitted with the same setbacks required for other accessory buildings in the zone in which they are located.
- B. Where a swimming pool is completely enclosed in a building, applicable setback requirements for accessory or main buildings shall apply for the zone in which the building is located.
- C. The location of the proposed swimming pool shall be approved by the Bear River Health Department.
- D. A swimming pool shall be completely enclosed by a substantial fence of six (6) feet in height or by a power safety cover meeting the requirements of the International Building Codes. The term “substantial fence” shall mean any fence that will not allow normal passage by any person except through an otherwise locked gate.
 - 1. Indoor pools are exempt from the fencing requirement but must meet the same standard as to controlling access. The walls of the building substitute for the fence or barrier.
 - 2. A fence or barrier that has an entrance to the facility must be equipped with a self-closing and self-latching gate or door.
- E. Lights used to illuminate the pool, facility, or its accessories shall be downward directed and designed so as to reflect light away from adjoining properties or premises and shall be in compliance with Chapter 5-9 (Outdoor Lighting Standards) of this code.

Chapter 1-3: Definitions

Power Safety Cover: A swimming pool cover that is placed over the water area and is opened and closed with a motorized mechanism activated by a control switch.

Swimming Pool: ~~An accessory use subject to all state and local regulations governing safety and health, which requires a conditional use permit.~~ Any artificial or semi-artificial container used or intended to be used for swimming by any person, together with all permanent structures, equipment, appliances and other facilities used or intended for use in and about the operation, maintenance and use of such pool.

Use Tables Update:

Chapter 3-3: Residential District

		R-1-8
3-3-070-1.0	ACCESSORY USES	
3-3-070-1.1	Accessory Buildings and uses customarily incidental to permitted uses other than those listed below Swimming Pool	P €
<u>3-3-070-1.4</u>	<u>Swimming Pool</u>	<u>P</u>

Chapter 3-2: Multiple Use, Agricultural, and Rural Residential District

		MU 160	MU 80	MU 40	A 20	A 1/2	RR 10	RR 5	RR 2	RR 1
3-2-070-1.0	ACCESSORY USES									
<u>3-2-070-1.4</u>	<u>Swimming Pool</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

Chapter 3-7: Rural Residential District RR-20 and Residential District R-1-20

		RR-20	R-1-20
3-7-070-1.0	ACCESSORY USES		
<u>3-7-070-1.4</u>	<u>Swimming Pool</u>	<u>P</u>	<u>P</u>

PLANNING COMMISSION
STAFF REPORT

Meeting Date: September 19, 2024
Agenda Item #: 7a

Application Type:
 Conditional Use Permit for Excavation

APPLICANT(S):
 Brody Calder

PROJECT #:
 CUP24-003

ZONE:
 Unzoned

PARCEL #:
 06-048-0100

TYPE OF ACTION:
 Administrative

REPORT BY:
 Marcus Wager,
 County Planner

BACKGROUND

The applicant is requesting a Conditional Use Permit for excavation on his property. The applicant states: "Excavation of 13,000 cubic yards for use of agriculture, livestock, and fish/wildlife habitat. Soil will remain on site in landscape design". The property is six (6) acres in size and is located at 14800 North 4542 West in the East Garland area.

Surrounding Land Use and Zoning:

<u>Direction</u>	<u>Land Use</u>	<u>Zoning</u>
North	Agriculture	Unzoned
South	Agriculture	Unzoned
East	Rural Residential/Ag	Unzoned
West	Agriculture	Unzoned

ANALYSIS

Land Use Ordinance Standards Review:

Box Elder County Land Use Management & Development Code Section 4-8-020(C) requires a Conditional Use Permit if the applicant meets certain requirements - this application does. Section 4-8-060 outlines the Standards and Specific Requirements for excavations. Section 2-2-100 outlines the following standards for review for conditional uses.

1. Decreased street service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing and design of off-street parking and circulation, loading docks, as well as compliance with off-street parking standards.
2. Negative impacts on the adequacy of utility systems, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems.
3. Negative impacts on connectivity and safety for pedestrians and bicyclists.
4. Detrimental effects by the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable within the district including such effects as environmental impacts, dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins, pathogens, gases, heat, light, electromagnetic disturbances, glare, and radiation. Detrimental effects by the use may include hours of operation and the potential to

create an attractive nuisance.

The Planning Commission may set conditions for potential impacts such as hours of operation, dust, and noise - or any others that can be thought of. This should be a topic of discussion during the meeting. Section 4-8-060(B) states that "the hours of operation should be between 7:00 am to 5:30 pm". Section 4-8-060(C) states that "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."

5. Environmental impacts that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people such as waste disposal, fire safety, geologic hazards such as fault lines, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, high ground water, environmental health hazards, or wetlands.
The Planning Commission may set conditions for potential damage to adjacent properties such as flooding etc. This should be a topic of discussion during the meeting.
6. Modifications to signs and exterior lighting to assure proper integration of the use.
The Planning Commission may set conditions for potential exterior light pollution. Lighting should conform to Chapter 5-9, Outdoor Lighting Standards. This should be a topic of discussion during the meeting.
7. Incompatible designs in terms of use, scale, intensity, height, mass, setbacks, construction, solar access, landscaping, fencing, screening, and architectural design and exterior detailing/finishes and colors within the neighborhood in which the conditional use will be located.
8. Reduction in the tax base and property values.
9. Reduction in the current level of economy in governmental expenditures.
10. Insufficient emergency fire service and emergency vehicle access as determined by the County Fire Marshall.
11. Reduction in usable open space.
12. Inadequate maintenance of the property and structures in perpetuity including performance measures, compliance reviews, and monitoring.

Setbacks:

All built and proposed structures currently or will adhere to the unzoned building setbacks.

Access:

Access to the property is obtained off of 14800 North, an existing county road.

County Department Review:

All applicable County departments have reviewed this.

FINDINGS:

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

1. The Box Elder Land Use Management and Development Code does allow for Conditional Use Permits for excavation on personal property that are approved by the Planning Commission.

2. Subject to the applicant's compliance with the conditions set forth by the Planning Commission they should be eligible for a Conditional Use Permit.

RECOMMENDATION

Based on the information presented in this report, application materials submitted and the site review, **staff recommends the Planning Commission APPROVE the requested Conditional Use Permit with the following conditions:**

Conditions of Approval:

1. Compliance with Section 4-8-080 requiring a Conditional Use Permit.
2. Compliance with Section 4-8-060 (Planning Commission should set specific conditions).
3. Compliance with Section 2-2-100, Conditional Use Permit, of the Box Elder County Land Use Management & Development Code (Planning Commission should set specific conditions).
4. Compliance with Article 5 of the Box Elder Land Use Management & Development Code.
5. Compliance with all applicable county, state, and federal laws regulating the proposed use, including all licenses, permits, etc.

MODEL MOTIONS

Approval – "I move the Planning Commission approve application number CUP24-003, a Conditional Use Permit for excavation, and adopting the exhibits, conditions and findings of the staff report, and as modified by the conditions below:

1. List any additional conditions....

Table – "I move the Planning Commission table the review of application number CUP2-003, a Conditional Use Permit for excavation, 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 CUP24-003, a Conditional Use Permit for excavation, 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.



