

BOX ELDER COUNTY PLANNING COMMISSION AGENDA

June 15, 2023

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 S. Zollinger, 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 May 18, 2023 Planning Commission Minutes.**

5. **UNFINISHED BUSINESS**

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| <ol style="list-style-type: none">a. ALPINE SPRING ESTATE SUBDIVISION, SS22-020, Request for preliminary approval for a 19 lot subdivision located at approximately 300 West 100 South in the Fielding area of Unincorporated Box Elder County. ACTION |
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6. **PUBLIC HEARINGS**

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| <ol style="list-style-type: none">a. ORDINANCE TEXT AMENDMENT, Z23-010, Request for a text amendment to several Sections of Chapter 2-2, Administrative & Development Review Procedures of the Box Elder County Land Use Management & Development Code to update noticing requirements to be in compliance with new State legislation. |
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7. **NEW BUSINESS**

- a. NONE

8. **WORKING REPORTS**

- a. NONE

9. **PUBLIC COMMENT**

10. **ADJOURN**_____

BOX ELDER COUNTY PLANNING COMMISSION MINUTES MAY 18, 2023

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
Jared Holmgren	Vice-Chair
Lonnie Jensen	Excused
Steven Zollinger	Excused
Bonnie Robinson	Member
Jed Pugsley	Member
Jennifer Jacobsen	Member
Vance Smith	Excused

the following Staff was present:

Scott Lyons	Excused
Marcus Wager	County Planner
Destin Christiansen	Excused
Stephen Hadfield	County Attorney
Boyd Bingham	Co. Commissioner
Diane Fuhriman	Executive Secretary

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

The Invocation was offered by **Commissioner Jared Holmgren**.
Pledge was led by **Commissioner Jed Pugsley**.

The following citizens were present & signed the attendance sheet

See Attachment No. 1 – Attendance Sheet.

The Minutes of the April 20, 2023 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Jared Holmgren** to approve the minutes as written. The motion was seconded by **Commissioner Jed Pugsley** and passed unanimously.

UNFINISHED BUSINESS -NONE

PUBLIC HEARINGS

Chairman Mellonee Wilding explained public hearings provide an opportunity for the public to voice their concerns or approval on an item. In the meeting there is also unfinished business, public hearings, and new business. The unfinished business and new business provides opportunity for the commissioners to take action on an item. It is not a time for public comment or input. Although the commissioners may ask questions of the applicant during these times.

ORDINANCE TEXT AMENDMENT, Z23-005, Request for a text amendment to Section 1-3-040, Definitions, Section 3-4-080-2, Commercial & Manufacturing Frontages and Setback Distances of the Box Elder County Land Use Management & Development Code. ACTION

Staff stated the applicant is requesting a text amendment to create a definition for non-functional frontage due to topography or other legal or practical reasons as well as creating setback distances that would be categorized with the new definition. The proposed amendment would affect section 1-3-040 (Definitions) and section 3-4-080-2.1 (Commercial & Manufacturing frontages and setback distances) of the Box Elder County Land Use Management & Development Code.

Staff explained the standards for reviewing zoning text 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 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 all commercial and manufacturing zones of unincorporated Box Elder County that would have "nonfunctional frontage" as proposed. 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 could adversely affect adjacent property with the proposed allowance of buildings set at a zero setback. 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 has the following concerns regarding this request: Regardless of any granted access, all other frontage would be considered non-functional; If any slope meets the minimum requested (5' rise over 20' run), all frontage is considered non-functional frontage; Proposal #2, wants to use another's property as a setback distance for an applicant's property. It also indicates this would be implemented where frontage is considered non-functional frontage; however, based on the proposals, it seems, aside from any access granted, everything would be considered non-functional frontage; As to proposal #3 a 0' does not provide for the buffer setbacks are expected to provide on a property line; As proposed, this language would likely produce interpretation and/or potential enforcement issues where every property and situation is different; It seems for the commercial/manufacturing zones, the proposed language would essentially create non-functional frontage wherever access wouldn't be used or has been denied. All setbacks would then be reduced to 0'.

Staff read the applicant’s proposed language:

Proposal #1: The inclusion of a definition for “Nonfunctional Frontage” in Code Section 1-3-040. The proposed language for this inclusion would read as follows:

Frontage, Nonfunctional: For purposes of this Code, street line frontage across which access may be denied, limited, or cannot be had because of topography or for other legal or practical reasons, such as street access restrictions by County or Utah Department of Transportation access management, shall not constitute frontage, as that term is defined herein. Street line frontage will be determined as nonfunctional frontage if the slope across any portion of the frontage is in excess of five (5) feet in height for each twenty (20) feet in horizontal distance measured from the property line to the travel way. If the County or Utah Department of Transportation has limited access to one vehicular access point, street line frontage outside of the site triangle of the granted access would be nonfunctional, regardless of topography.

Proposal #2: The inclusion of language in the existing definition of “Frontage” in Code Section 1-3-040 to address situations, where due to topography or restricted access, there exists a gap, larger than twenty feet between the property line fronting a street and the travel way of that street. The proposed language for this inclusion would read as follows:

Where street line frontage is determined to be nonfunctional frontage and When there is there exists more than twenty (20) feet from the property line fronting a street to the travel way of the adjoining street, then the space between the property line and the travel way shall be counted towards the required setbacks contained in code section 3-4- 080-2.1.

Proposal #3: The inclusion of language regarding the setback requirements for nonfunctional frontage in the table contained in code section 3-4-080-2.1 lists the minimum depth and/or length for yards in the zoning districts regulated by the Box Elder County Code. The proposed language shall incorporate the existing side yard setback requirements for all other zones and shall designate the nonfunctional setback for the CE zone to 0’. The proposed language would appear as follows:

	C-N	C-S	C-H	C-G	M-FP	M-G	C-E
Frontage, Nonfunctional (must comply with Section 5-1-180)	10 0	0					

The public hearing was then opened for comments. There were no comments.

Hearing no comments, a motion was made by **Commissioner Jared Holmgren** to close the public hearing on the Ordinance Text Amendment, Z23-005. The motion was seconded by **Commissioner Bonnie Robinson** and passed unanimously.

ACTION

Staff explained further concerns regarding the proposed language as follows:

Comment 1 to Proposal #1: In circumstances where access cannot be had across street line frontage due to slope, the determining factor that would convert “frontage” into “nonfunctional frontage” would be a slope in excess of 5 feet of height for each 20 feet in horizontal distance. For example, if you have 200 feet of frontage, the entirety of the frontage will be considered nonfunctional

frontage if any portion of the frontage has a slope in excess of the amount described above, would be considered nonfunctional frontage.

Comment 2 to Proposal #1: In circumstances where the County or UDOT has only provided one access point, the remaining portion of street line frontage outside of the site triangle for the allowed access would be considered nonfunctional, regardless of topography. For example, if a 35 foot access is allowed, the frontage outside of the site triangle of that access will be considered nonfunctional, regardless of topography.

Commissioner Mellonee Wilding asked what is the point of non-functional frontage? Staff explained the applicant would like this proposal put into place so where ever non-functional frontage is, except where the access point is, it would have a zero foot setback. This way they could go all the way to the property line and build. The applicant would like to build storage units and use the buildings as a type of fencing. There are new storage units in Willard City using the outside perimeter as an access road. In South Willard, another one was approved which has an access road on the perimeter of the development that acts as an access road. However, the applicant does not want to do this and has created this proposal.

Commissioner Bonnie Robinson asked if this would change the code for the whole county. Staff said it would in the commercial/industrial zones. Commissioner Robinson is also concerned with safety regarding this proposal.

Staff said Proposal #2 does not make sense as the applicant is trying to use someone else's property as a setback. Staff also does not agree with Proposal #3 which provides for a 0' setback for all commercial and manufacturing zones.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation of denial to the County Commission for application Z23-005, an ordinance text amendment to Section 1-3-040, Definitions, Section 3-4-080-2, Commercial & Manufacturing Frontages and Setback Distances of the Box Elder County Land Use Management & Development Code based on the concerns of staff; the proposal does not make sense safety wise. The motion was seconded by **Commissioner Jed Pugsley** and passed unanimously.

ZONING MAP AMENDMENT, Z23-006, Request for a zone change of 30.29 acres from A-20 (Agricultural 20 acre) to RR-20 (Rural Residential 20,000 sq. ft.) located at approximately 5200 West 4800 N in the Bear River area of Unincorporated Box Elder County. ACTION

Staff stated the applicant is requesting that parcel 04-088-0005 (30.29 acres) be rezoned from A-20 (Agriculture 20 acres) to the RR-20 (Rural Residential 20,000 sq. ft.) zone. The parcel is in the Bear River City area and the applicant has been through the annexation petition process with Bear River City. The surrounding land use is Agricultural and the surrounding zones are A-20 and RR-20.

Staff explained the standards for reviewing zoning text 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: This plan suggests that most growth should occur in the cities and towns. The County can adopt policies to encourage that to happen but must continue to recognize private property rights and coordinate with the incorporated communities. In the West Corinne section of the plan, it states: Future Land Use: as part of the agricultural heritage area, large lot zoning should remain, to encourage continued agricultural activity. Irrigation capabilities, culinary systems, and water rights should be studied to assure the current system can serve the area in the future.
- B. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;** The area is mainly agricultural uses with some residential scattered. The Planning Commission needs to decide if an RR-20 zone could be considered harmonious.
- C. The extent to which the proposed amendment may adversely affect adjacent property;** This is unknown. 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 unknown what the adequacy of facilities is in this area for the RR-20 zone.

The public hearing was then opened for comments.

Chad Hardy, applicant, explained the plan is to parcel off about 5 ½ acres to sell to family members. He said there is already water there.

Hearing no further comments, a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on the Zoning Map Amendment, Z23-006. The motion was seconded by **Commissioner Jennifer Jacobsen** and passed unanimously.

ACTION

Staff stated based on their analysis of the zoning map amendment application and materials submitted, staff sees no problems with the application. The Planning Commission will need to determine if the proposed map amendment meets the approval standards found in Sections 2-2-080€ of the Box Elder County Land Use Management & Development Code.

Commissioner Bonnie Robinson wants to make sure the road does not become a problem as there have been road troubles before. Staff said if the subdivision is done, some improvements will be required.

Commissioner Mellonee Wilding said the County General Plan would rather have development in the cities, but the applicant has attempted to annex and has followed the county's annexation policy. She thinks it is harmonious with the overall character of existing development in the vicinity because of the already existing RR-20 zone in the area and feels it meets all the standards.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation of approval to the County Commission for application Z23-006, a request for a zone change of 30.21 acres from A-20 (Agricultural 20 acre) to RR-20 (Rural Residential 20,000 sq. ft.) and adopting the conditions and findings of staff. The motion was seconded by **Commissioner Jared Holmgren** and passed unanimously.

ORDINANCE TEXT AMENDMENT, Z23-007, Request for a text amendment to Chapter 6-1, Subdivisions, to change verbiage regarding wells in the Box Elder County Land Use Management & Development Code. ACTION

Staff said the applicant has requested consideration that a text amendment be made to amend Sections in Chapter 6-1, Subdivisions, in the Box Elder County Land Use Management & Development Code.

Staff explained the standards for reviewing zoning text 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 General Plan states: "Box Elder County understands that future development is most likely to occur in areas where adequate services are available. The County does not support extending services through or into areas that have not been identified for future development. With respect to responsible land use planning and efficient resource use, it is the County's preference that growth and development take place within existing communities or in unincorporated areas within which adequate services are or may be made available."

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 where a well would be considered, 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; Whether the affect is adverse is possibly subjective and up to adjacent property owners. 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 would likely not have an effect on the adequacy of facilities.

Staff explained there are multiple sections in Chapter 6-1 of County Code requiring the developer, or someone who is subdividing, to drill a well or test well for testing prior to subdivision approval.

The County Attorney agrees with staff and stated the following: They do not specifically state that a well has to be drilled prior to subdivision approval, but it is clear that the information required for approval (water pressure, sufficient supply, etc.) is not available unless or until a well is actually drilled. The argument that we don't require the same thing from culinary water suppliers (without requiring an actual connection to be installed) is not persuasive because all of this information is currently available from the existing culinary water suppliers before any connections are installed.

Staff read the applicant's proposed text amendment and their reasoning for it.

Proposed Text Amendment: If public water is not available and a private well is required - Buyers will be required to drill the well and test the water prior to the occupancy permit being issued. Subdivider may subdivide the lot and sell the lot with proper notice per 6-1-060E & 6-1-2400 to buyer or builder.

Reasoning from the applicant:

1. Subdivider has no idea what buyer is going to do with the lot or if they even build on it at all, or what water requirements might be required.
2. Developer does not know where to place the well on the lot to allow for the proper distance from the septic system and other potential conflicts.
3. Requiring the well to be drilled and tested prior to subdivision not knowing whether the subdivision is approved, possible, or meets the code is unrealistic for a buyer.
4. Well drillers have taken a substantial amount of time to schedule to drill a well. The subdivision could be happening simultaneously.
5. As it says in 6-1-060E "It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the prospective buyer or builder has been advised that occupancy will not be permitted until all required improvements are completed."
6. As it says in 6-1-2400 "It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the prospective buyer or builder has been advised that occupancy will not be permitted until all required improvements are completed."

The public hearing was then opened for comments.

Bradon Capener read a letter from applicant Micah Capener who was unable to attend.
(See Attachment No. 2 – Capener Letter.)

Mr. Capener commented he thinks the well being dug makes more sense at the building permit level. The lot we are trying to subdivide is just one lot into 2 pieces on some frontage, it is not like a master planned community. He could easily see someone buying the lot to build a home on in the future. If we drill a well now and it sits there for many years, or the people buy it and change their minds, we would have a well there that may or may not be used. At the developer level we do not know what the buyer is going to use it for. Historically, the county has not required this. The code has been reinterpreted within the last few months. It made sense at one time and there has not been a problem, we are unsure why the county all of a sudden changed the way they interpreted the code.

Monica Clevenger, East Garland, expressed her thoughts about the impracticality of requiring the proof of water and wells. A seller cannot predict a buyer's use of the property. A buyer will not spend money to put in the research before they purchase a property, it could potentially delay the sale of a lot especially with well permits being a year out. This could hamper some transactions from happening.

Hearing no further comments, a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on the Ordinance Text Amendment, Z23-007. The motion was seconded by **Commissioner Jared Holmgren** and passed unanimously.

Staff explained before we started requiring the wells and the water report to be done, we were unaware these sections of code existed. After digging deeper into the subdivision codes we found we were not compliant with our county code. Although code does not explicitly state the developer has to drill a well, with what code does state, staff does not see how approval could be given without it being drilled. We feel when someone buys a lot with the expectation it is buildable, it should be fully ready at that point.

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

Commissioner Jed Pugsley asked if this was a large parcel of land to be subdivided, would a variance be an applicable option? Staff said the county's hearing officer needs a special circumstance for a variance. There is nothing special associated with this subdivision. It is just a standard subdivision.

Commissioner Jared Holmgren asked if there are water rights available for small wells. Staff's understanding is there are small wells available.

Commissioner Mellonee Wilding understands the process might be time consuming but that is not a reason to lessen the county code. Everything has slowed down and that is just a part of business, it does not mean the county changes the requirements. She understands the applicant's issue, but a text amendment is a permanent change for the entire county, not an answer for a single situation.

MOTION: A Motion was made by **Commissioner Jennifer Jacobsen** to forward a recommendation of denial to the County Commission for application Z23-007, an ordinance text amendment to Chapter 6-1, Subdivisions in the Box Elder County Land Use Management & Development Code based on the reasons presented by staff and the staff report. The motion was seconded by **Commissioner Jared Holmgren** and passed unanimously.

ORDINANCE TEXT AMENDMENT, Z23-008, Request for a text amendment to Article 5: Exhibit A, New Road Standards 2014 of the Box Elder County Land Use Management & Development Code to allow a 70' entrance for heavy trucking operations. ACTION

Staff said the applicant is requesting a text amendment to allow a 70' entrance for commercial heavy trucking operations, currently the standard is a 50' entrance. The proposed amendment would affect Article 5: Exhibit A New Road Standards 2014 of the Box Elder County Land Use Management & Development Code

Staff explained the standards for reviewing zoning text 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 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 any type of proposed heavy truck operation in 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; 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 read a letter received from applicant Jim Flint, Hansen and Associates Inc.

(See attachment No. 3 – Letter.)

The public hearing was then opened for comments.

Bret Cummings, Hansen & Associates, stated our request is to add to the standards to allow a 70' access for semi-trucks. This would increase the safety of the accesses as the trucks would not be required to swerve into oncoming traffic by making a large radius turn. It would also increase the safety of the site itself as trucks coming out would not be conflicting with trucks entering the site.

Hearing no further comments, a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on the Ordinance Text Amendment, Z23-008. The motion was seconded by **Commissioner Jed Pugsley** and passed unanimously.

ACTION

Staff explained the reason this item came forward is due to one specific project. The project does have other ways to get into the site that would not require an ingress/egress on the county road.

Commissioner Mellonee Wilding asked if this is an issue other companies have complained about. Is this a county-wide problem or an issue specific to this project? She does not like changing county code for a specific problem.

County Road Superintendent Darin Mcfarland stated there are many trucking companies using county roadways and there have not been any issues.

Commissioner Jared Holmgren asked if this would be a hardship for the county if the 70' entrance was approved. Darin Mcfarland said if there are too many approaches in that short of a distance, it adds more line-of-sight issues.

Commissioner Jed Pugsley said the Flying J and Sinclair in Snowville have huge entrances and they have consistent problems. Commissioner Pugsley has property across the street with a 66' entrance. He has problems with trucks running over the curb and running over rocks. He has narrowed it down consistently to make sure the trucks can make the radius. He feels it makes more of a traffic hazard to increase to 70'.

Commissioner Jared Holmgren asked if the code could be amended to read a minimum of 50' up to a maximum of 70'. **County Road Superintendent Darin Mcfarland** said he would not recommend increasing to more than 50'.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation of denial to the County Commission for application Z23-008, an ordinance text amendment to Article 5: Exhibit A. New Road Standards 2014 of the Box Elder County Land Use Management & Development Code based on the findings of staff and recommendations from the County Road Supervisor. The motion was seconded by **Commissioner Jed Pugsley** and passed unanimously.

NEW BUSINESS - NONE

WORKING REPORTS – NONE

S-3 Sign Overlay Zone

Staff brought this item before the Commissioners in March but has received little to no feedback from the commissioners. Staff asked the commissioners if they want to pursue the item further or keep what is already in code. All Commissioners agreed to keep what is in code.

PUBLIC COMMENTS - NONE

Commissioner Jared Holmgren took the opportunity to go on record with his thoughts about the text amendment for wells. He said the text amendment the applicant wanted, in his opinion, is the reason we have to have zoning ordinances. It was aggravating when the applicant read the letter and made his comments. Commissioner Holmgren expressed his appreciation for staff and all the work they do.

ADJOURN

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to adjourn commission meeting. The motion was seconded by **Commissioner Jared Holmgren** and meeting adjourned at 8:06 p.m.

Mellonee Wilding, Chairman
Box Elder County Planning Commission

**PLANNING COMMISSION
 STAFF REPORT**

**Meeting Date: June 15, 2023
 Agenda Item #: 5a**

Application Type:
 Preliminary Subdivision

APPLICANT(S):
 Mark Whitworth

PROJECT #:
 SS22-020

ADDRESS:
 300 West 100 South
 Fielding area

ZONE:
 Unzoned

PARCEL #:
 06-022-0115

REPORT BY:
 Scott Lyons,
 Community Development
 Director

BACKGROUND

The applicants are requesting preliminary approval of the Alpine Spring Estates Subdivision plat. The proposed subdivision is for 19 new lots, between 0.5 and 0.73 acres in size. The existing parcel is 70.47 acres in size.

The preliminary plat was first presented to the Planning Commission in July this year. Upon review it was tabled for up to six months due to issues with several lots not meeting development requirements based on FEMA floodplain issues. The applicant was notified of the floodplain issues in May, July, and September.

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	Rural Residential	Fielding Town
South	Agriculture	Unzoned
East	Agriculture	Unzoned
West	Agriculture/Rural Residential	Unzoned

Access:

Access would be via a proposed new road, 4200 West, connecting to 300 West/100 South in Fielding Town.

Utilities:

The County has received utility will-serve letters from the gas, power, and water companies. The letter from Ukon Water only states that 13 water connections are available for this development. This is enough to cover Phase 1, but six more will be needed to cover Phase 2. We have also received a feasibility letter from the Bear River Health Department. This feasibility letter is based on a concept plat dated 4/22/22. We need an updated feasibility letter based on the current plat. A geotechnical report has also been submitted. Secondary water shares are owned by the developer. No plan for water rights and distribution has been established and submitted at this point in the project.

Setbacks:

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

As this plat has some unique geography with the pond, floodplains, and septic County staff recommends the final plat show the buildable area of each lot. The BRHD states the final plat shall show primary and replacement drainfield areas as well as a restriction note on the plat identifying these lots and the drainfield areas to any and all potential buyers. This may necessitate limiting house size on these lots to accommodate the needed area for septic systems.

County Department Reviews:

This application is a preliminary subdivision plat application. All applicable County departments are currently reviewing this subdivision – Comments can be provided at the Planning Commission meeting. The main thing we are waiting for on this subdivision is a Letter Of Map Amendment from FEMA. This is a document that officially changes the location of the mapped floodplain. Per our subdivision ordinance:

No lot of one (1) acre or less in area shall be included within a 100-year flood plain. All lots more than one (1) acre shall contain not less than 40,000 square feet of land which is at an elevation at least two (2) feet above the elevation of the 100-year recurrence interval flood, or, where such data is not available, five (5) feet above the elevation of the maximum flood record.

The following message was provided to the applicant on May 26th:

Looking at the proposed plat it appears Lots 3-6 (phase 1) and 17-19 (phase 2) are all less than one acre and within the floodplain. Please be aware that if FEMA does not approve the LOMA you will need to make changes to the subdivision layout.

It is our understanding that the applicant is currently working with FEMA on the LOMA process.

Findings:

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

1. The plat as currently proposed does not comply with County development standards.
2. Modifications to the proposed preliminary plat may be made to bring it into conformance with the County Land Use Management & Development Code. Some of these modifications are known at this time, and some are not as they are dependent on the result of the applicant's outcome with FEMA.

RECOMMENDATION

Based on the information presented in this report, application materials submitted and the site review, **the Planning Commission may DENY the proposed preliminary plat based on the findings above and any others the Planning Commission finds, or TABLE the preliminary plat application with the following directions as well as any others the Planning Commission finds:**

1. Submission of a water will-serve letter prior to Phase 2 final plat application.
2. Submission of an approved Letter of Map Amendment from FEMA for the removal of the floodplain burdening Lots 3-6 and 17-19.
3. Submission of an updated feasibility letter from the BRHD.
4. Compliance with all BRHD comments.
5. Submission of proposed secondary water ownership and distribution.
6. Compliance with all County Staff reviews and comments.
7. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.
8. Compliance with Chapter 6-1, Subdivisions, of the Box Elder County Land Use Management & Development

Code.

9. 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 SS22-020, a preliminary plat for the Alpine Spring Estates 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....

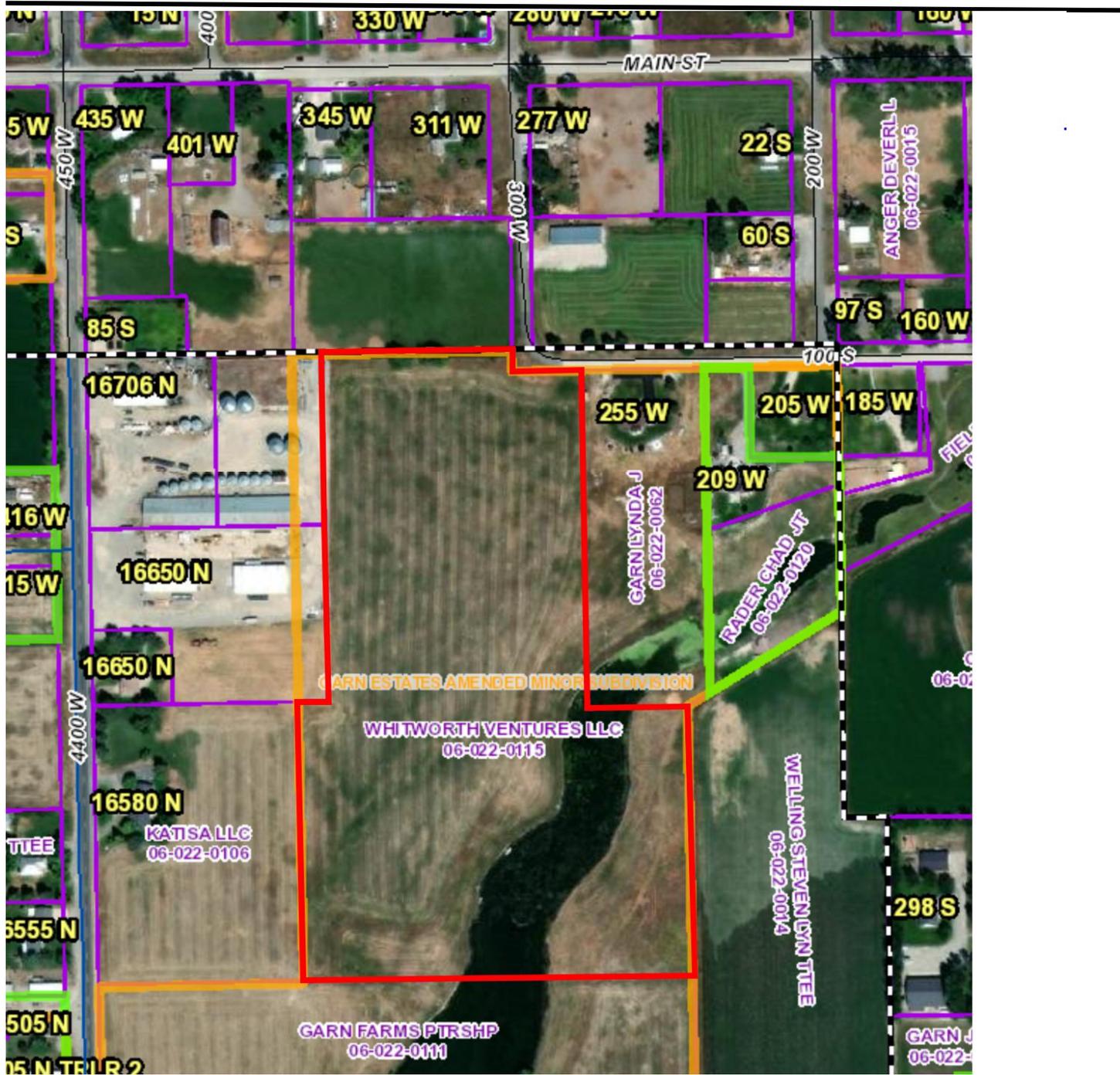
Table – “I move the Planning Commission table application number SS22-020, a preliminary plat for the Alpine Spring Estates Subdivision, located in unincorporated Box Elder County, to (give date), based on the following findings:”

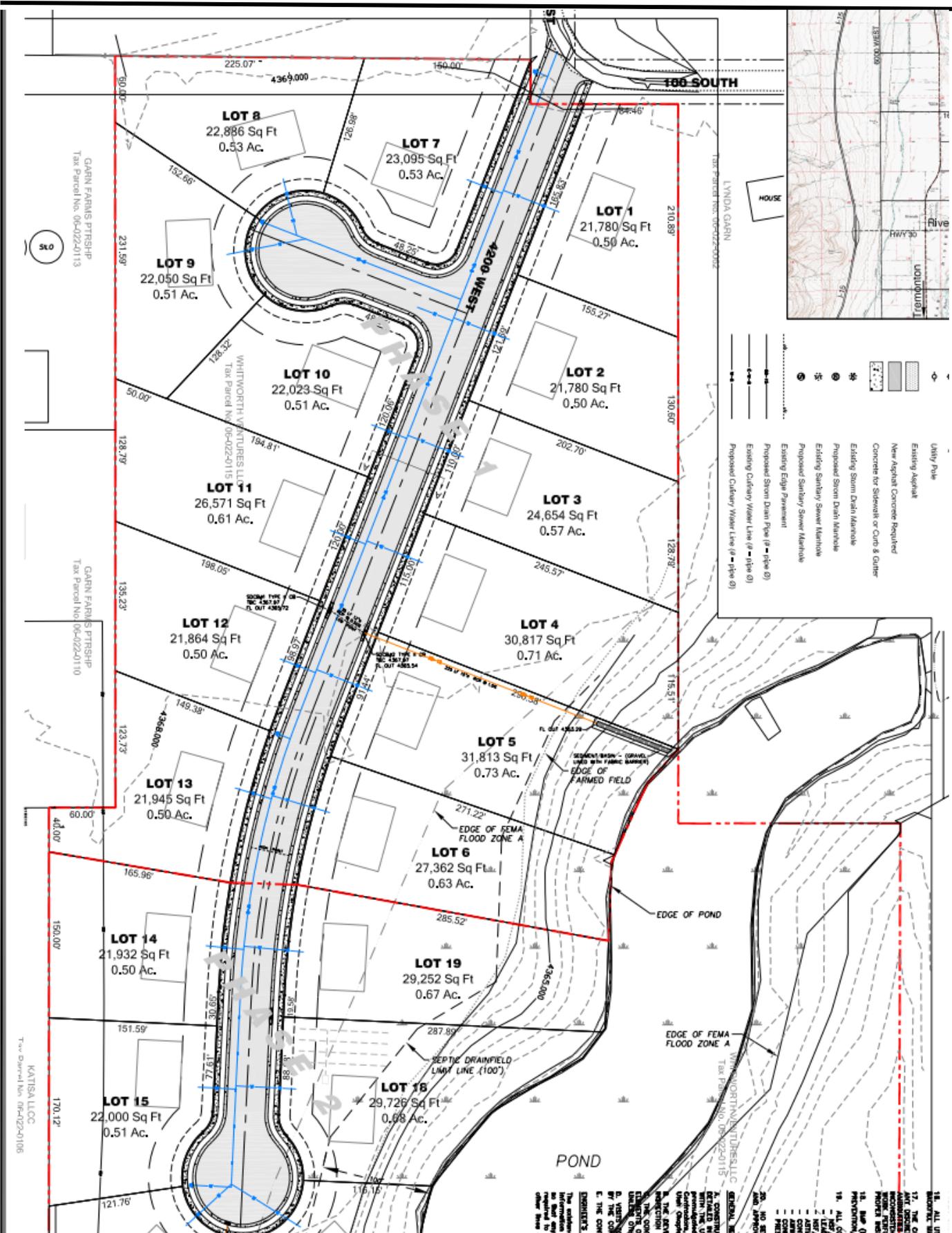
1. List reasons for tabling the item, and what is to be accomplished prior to the next meeting date...

Denial – “I move the Planning Commission deny application number SS22-020, a preliminary plat for the Alpine Spring Estates 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: June 15, 2023

Agenda Item #: 6a

Application Type:

Ordinance Text Amendment

APPLICANT(S):

Box Elder County

PROJECT #:

Z23-010

ORDINANCE:

Section 5-1-360 (new)

TYPE OF APPLICATION:

Legislative

REPORT BY:

Marcus Wager,
County Planner

BACKGROUND

The county is proposing a text amendment to amend various Sections in Chapter 2-2, Administrative and Development Review Procedures. State Code recently changed and we are coming into compliance with this text amendment. Specifically this text amendment would be amending sections of code with regards to noticing and would apply to all areas of unincorporated Box Elder County. See proposed verbiage below.

ANALYSIS

County Code:

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

Land Use Ordinance Standards Review:

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

- A. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;**
The County's General Plan does not specifically deal with noticing requirements.
- 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. The proposed amendment should be harmonious with the overall character of existing development.
- 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 and services.

FINDINGS:

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

1. The Box Elder Land Use Management and Development Code does allow for ordinance text amendments subject to review procedures and approval by the County Commission with a recommendation from the Planning Commission.
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 Z23-010, 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 Z23-010, 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 Z23-010, 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:

2-2-050-B. Public Notice Classifications and Requirements ~~Required Notice of Public Hearing~~: Notices for applicable public hearings or public meetings shall comply with Section 63G-30-102 ~~Title 17 Chapter 27a Part 2~~ 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.

2-2-070-D-4. General Plan Amendment.

4. The County shall give a Class A notice ~~and hold a public hearing~~ on the proposed amendment as provided in Section 2-2-050 of this Code and Utah Code 17-27a-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.

2-2-080(D3)(D4). Zoning Map and Text Amendments.

3. The County ~~Planning Commission~~ shall give a Class A or a Class B notice ~~and hold a public hearing~~ on the proposed amendment as provided in Section 2-2-050 of this Code and Utah Code 17-27a-205 as amended. ~~Following the public hearing and review of the application the Planning Commission shall thereafter submit its recommendation for approval, approval with modifications, or denial thereof to the County Commission.~~

- 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.

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- 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 receipt of a recommendation from the Planning Commission, the County Commission may hold a public hearing on the application as provided in Section 2-2-050 of this Chapter and Utah Code 17-27a-205 as amended.~~ 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. ~~(Ordinance 392)~~

2-2-100(D2)(D4). Conditional Use Permits.

2. After the application is determined to be complete, the Zoning Administrator shall give schedule a Class A notice of a public meeting hearing before the Planning Commission as provided in Section 2-2-050 of this Chapter.
4. The Planning Commission shall hold a public meeting hearing 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.

2-2-120-E-6. Site Plan Review.

6. The Planning Commission shall give a Class A notice of hold a public meeting pursuant to Section 2-2-050 of this Code and after due consideration shall approve, approve with conditions, or deny the application pursuant to the standards set forth in below:
- a. Any conditions of approval shall be limited to conditions needed to conform the site plan to approval standards.
 - b. In the case of a conceptual site plan for a planned development, Planning Commission approval shall not be effective unless and until a corresponding Planned Unit Development Overlay or the Planned Community Overlay zone is approved by the County Commission.

2-2-130-D-2. Variances.

2. After the application is determined to be complete, the Zoning Administrator shall give a Class A notice of schedule a public meeting before the Hearing Officer as provided in Section 2-2-050 of this Code.

2-2-150-D-5. Nonconformities.

5. The County shall give a Class A notice of a public meeting. ~~The Hearing Officer shall hold a public meeting and~~ 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.

2-2-160-D-4. Temporary Use Permit.

4. The Planning Commission shall **give a Class A notice of** ~~hold~~ a public **meeting** ~~hearing~~ regarding the application pursuant to Section 2-2-050 of this Code. After due consideration the Planning Commission shall approve, approve with conditions, or deny the application pursuant to the standards set forth in Section 2-2-160(E) of this section.

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

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.