

# BOX ELDER COUNTY PLANNING COMMISSION MINUTES MARCH 17, 2011

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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 constituting a quorum:

|                 |                       |   |               |
|-----------------|-----------------------|---|---------------|
| Richard Day     | Chairman              | <i>the following Staff was present:</i> |               |
| Chad Munns      | Vice Chairman/Excused |   |               |
| Desiray Larsen  | Member/Excused        | Kevin Hamilton                          | Director      |
| David Tea       | Member/Excused        | Elizabeth Ryan                          | Ex. Secretary |
| Ryan Tingey     | Member                | Scott Lyons                             | Planner       |
| Jay Christensen | Member                | Steve Hadfield                          | Co. Attorney  |
| Laurie Munns    | Member                |   |               |

**Chairman Richard Day** called the Planning Commission meeting to order at 7:09 p.m. The Minutes of the January 20, 2011, January 24, 2011, and the February 7, 2011 meetings were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Laurie Munns** to accept the Minutes of the January 20, 2011 meeting as written; seconded by **Commissioner Jay Christensen** and passed unanimously.

A **Motion** was made by **Commissioner Laurie Munns** to accept the Minutes of the Special Meeting held on January 24, 2011 as written; seconded by **Commissioner Jay Christensen** and passed unanimously.

A **Motion** was made by **Commissioner Laurie Munns** to accept the Minutes of the Special Meeting held on February 7, 2011 as written; seconded by **Commissioner Jay Christensen** and passed unanimously.

#### **The following citizens were present:**

|                               |                                 |
|-------------------------------|---------------------------------|
| Jason Holmes/Bear River City  | Shayne Andersen/Bear River City |
| Thomas Dorsch/Bear River City | Andrew Scholes/Bear River City  |
| Chuck Johnson/Salt Lake City  | John Vicars/Garland             |
| Dave Murphy/Brigham City      | Jay Dee Scott/Fielding          |
| Michael Watts/North Logan     | Tom Davis/Brigham City          |

#### **PUBLIC HEARINGS**

**Chairman Richard Day** called for the public hearings on the agenda by informing those in attendance that each item would be handled separately, and that the time for the hearings was to allow the public the opportunity to voice any concerns and the Commissioners would listen to the comments and concerns, but this was not a questions/answer time.

**VICARS TRUCKING EQUIPMENT LOT, SP11-002, PROPOSED NEW BUILDING SITE FOR STORAGE OF TRUCKS AND OTHER EQUIPMENT, LOCATED ON NUCOR STEEL PROPERTY PARCEL 07-035-0001 IN THE PLYMOUTH AREA OF BOX ELDER COUNTY.**

County Planner, Scott Lyons, explained that this petition is for a storage building on Nucor Steel property, for the purpose of storage maintenance vehicles. Vicars Trucking is currently storing these vehicles in a “tent” type structure and a more permanent structure is needed in order to comply with the property safety requirements. The site plan is for a 30’ X 40’ building. No comments were received and a Motion was made by Commissioner Jay Christensen to close the public hearing; seconded by Commissioner Laurie Munns and was unanimous.

**P & G, CUP11-003, LAND DEVELOPMENT FOR VARIOUS COMMERCIAL, INDUSTRIAL AND MANUFACTURING PURPOSES (AMENDING CUP10-017).**

County Planner, Scott Lyons informed the Commissioners that this petitioner, P&G, applied for and received a CUP in November 2010, and this application is for an amendment to that CUP in order to perform some additional site work on the property in preparation of Phase II of the manufacturing facility. The original CUP was granted for surcharging the soil in order to compact the ground. This amendment would allow for on-site haul roads, grading/drainage modifications and sheet piling (or an alternate method to achieve the design intent) at the facility site located at 5000 North Iowa String Road. No comments were received during the hearing and a Motion was made by Commissioner Laurie Munns to close the hearing; seconded by Commissioner Ryan Tingey and was unanimous.

**UNFINISHED BUSINESS**

**VORTEX (CHARLES JOHNSON) SP10-011, STORAGE & ASSEMBLY OF CLASS “B” 1.3 G FIREWORKS, LOCATED ON A PART OF THE NORTHEAST QUARTER OF SECTION 28, T13N, R2W OF THE SLB&M IN THE FIELDING AREA OF BOX ELDER COUNTY.**

County Planner, Scott Lyons reminded the Commissioners that this petition had been reviewed at the January 20, 2011 meeting for a proposed site plan for the storage and assembly of class “B” 1.3G fireworks. Concept approval was granted at the January meeting with some requirements<sup>i</sup> of the petitioner in order for final approval to be granted. **Chuck Johnson**, petitioner, has met those requirements and documentation is in the applicant’s file. For final approval the conditions recommended by the County Engineer, Road Department and Fire Inspector are as follows:

1. *A distance of 270 feet is required between the magazines and the county road.* (as required by ATF regulations)
2. *The ground around each container must be graded so that water drains away from the magazine*
3. *There must be a fire apparatus access road capable of supporting a twenty (20) ton truck. The road is to be a minimum of twenty (20) feet wide and be provided with an approved turnaround.*
4. *The premises must be identified with plainly legible and visible address numbers.*
5. *The entrance to the access road must be posted with a contact phone number*
6. *There must be an approved key box installed in an approved location*
7. *An inspection of the site is required prior to beginning operation.*

Once these conditions are met a final inspection would be conducted and a permit would be granted. (Staff and the County Fire Inspector would conduct the final inspection of the site.)

At this point in the meeting *Mr. Jay Dee Scott* asked to approach the Planning Commissioners to address some concerns that he had regarding this petition and site plan. *Mr. Scott* said that he had received some GRAMA requests from the County regarding this site plan and was concerned that there is a power line along the back side of this site plan that feeds NUCOR and another main trunk line; that is a major line to NUCOR. There is also a fiber optic line in close distance to this power line. This site is also close to a Boy Scout Camp. The road that accesses this site is also used by travelers coming from the Logan/Cache County area and if there were an explosion on the site there would not be a way to shut down the road. [When the containers blew up in the Snowville area it was further reaching than the 270 feet that is required distance from the road.] Another concern that he had was at the current site it was proposed that a distance of 270 feet from the county road be established, but the County and ATF turned that down. Also, there is no real security around the site; the current fence at the proposed site is more than forty years old and has not really been maintained during that time. It would be difficult to secure this site with a three-wire fence. How would the public be kept safe from this situation? They first applied for an application in 2003 and should have been required to reapply in 2006. It took the applicant from 2003 to 2009 to bring the current site into compliance. During this time, *Mr. Scott* said that he had made complaints to the County that they were not in compliance, and when *Mr. Scott* reviewed the applicant's file he said that there was nothing in the file from the fire marshal or the County inspectors that checked the site and granted occupancy. There was nothing in the file regarding the environmental issue that *Mr. Scott* had brought up. There is nothing contained in the file stating that they (the applicants) has to reveal what is stored in the containers. They (the applicants) have never supplied *Mr. Scott* with insurance information or any sort of bonding that they were required to provide. They never did any of the things that they had agreed to do; they said they would put a fence up, but didn't. *"You're allowing an application to go forward, when they've had years of blanket, blanket, blanket, blanket violations, including log book violations. If you knew how hard it was to get the Federal Firearms, the ATF or the environmental agencies to say what they've seen and what they've done up there, it is a nightmare. Granting any kind of thing. . .now this application said just for the storage. . . is what you said today here. . .the application I seen was for the storage and manufacturing. . .and so when I hear just part of the words coming out I get nervous because they have never done anything to show me a safety protocol, and this is my concerns. I thank you for your time."*

*Mr. Scott* felt that this application and site plan created a "loose cannon" with nobody being able to show how this will be accomplished in a safe manner. He has witnessed it first hand at the current site and had also supplied the Planning Commission with pictures. Regarding the fire protection around the site, *Mr. Scott* would swath around the containers and kept the area around them clean. He felt that it would be good for the County to also put some stipulations on the site in that regard for fire prevention. There is also a house closer than that shown on the application; at least an eighth of a mile closer than indicated. Also Cutler Dam is close by and a blast up there could definitely affect Cutler Dam and knock out power for a lot of areas as the main trunk line go there.

*Chuck Johnson*, President of Vortex Productions, then came forward to address the Planning Commissioners saying, *"...in response to this, we formally dispute all of these accusations. I*

*don't know if this is the time, the place, or the venue to address Mr. Scott's issues. I will respond if any of the members have any concerns about any of these issues in-so-much as it would reflect negatively on their vote to grant us our Conditional Use Permit. We are within total compliance of ATF regulations; the security and storage is in total compliance with ATF regulations. We have just had an inspection and we are trying to move . . . and I don't even know what Snowville fire he's talking about . . . it wasn't us and it certainly didn't have anything to do with this. I checked, as far as our conditional use permit in the past, I talked with the woman and she said as long as we kept up our business license and did not abandon the project, our conditional use permit is valid. One again the containers . . . and I'm not sure . . . the ATF never turned us down on anything in '03. As far as building the fence, at some point in time I was hoping to renegotiate the lease with Mr. Scott and we were prepared to build a fence, but the demands and the situation got to the point where we realized that was unreasonable and that's why we pursued our own property. And. . . we. . . and the other things is we're greatly, greatly, greatly exaggerating the energetic potential. . . this is not high explosives, these are fireworks, the kind that we see on the 4<sup>th</sup> of July in every park across America. This is not high explosives and it's not going to damage the Dam and it's just. . . it's inconceivable to even consider that. And, so, as far as environmental issues, we are in total compliance, and nothing has leaked anywhere and there's no picture of anything leaking out of anything that would have anything to do negatively on anything environmentally as far as any regulation goes. And we have actually given you copies of the soil samples that went to. . . that we took. . . once again when we thought we were going to be able to have a relationship. . . I think that is everything I have to say. If you have any questions, concerns, I would be happy to address them.*

**Commissioner Laurie Munns** asked if they had any plans regarding a fire containment plan for the areas around the containers to prevent any potential fire from spreading. In response, *Mr. Johnson* said that they would be in compliance with the ATF in keeping the grass cut down and that they had also talked with the fire marshal and were considering using this property to research and develop some grasses that are used for fire breaks. These grasses can only be planted at certain times of the year and in the meantime they will be complying with the ATF regulations. The containers will be placed on the ground without any sort of riser or slab under them. Another issue that *Mr. Johnson* wanted to discuss with the Commissioners was that of the eight containers as he said that he also has a couple of other smaller containers, i.e. a trailer to stay in when working on his fireworks and another for assembly. However, this application was only for eight containers, and anything additional to that would have to be reapplied for with an amendment to this CUP.

**Commissioner Jay Christensen** concurred with needing to have some sort of a fire break maintained around and between these containers and the use of grasses would take a few years to get established. It might be a better idea to have the containers set on a gravel surface. *Mr. Johnson* said that he has been in contact with an excavation company to do work on this proposed site and he is anxious to get started in order to get the business moved to this new site and was willing to work with the Planning Department and Commission with any stipulations that would be required of him. *Mr. Johnson* said that he has been in Box Elder County for eleven years and has not had any problems in that time. At the conclusion of the discussion the following motion was made.

**MOTION:** A Motion was made by **Commissioner Jay Christensen** to grant the **Conditional Use Permit** for the Vortex Productions with the addition of having a ground

sterilent or other method of maintaining a fire break around the containers, along with any other Staff conditions and recommendations. [Commissioner Ryan Tingey noted that this application was only for eight containers and any additional containers or other storage/living facilities would need to be reapplied for as an amendment to this CUP.] Motion was seconded by Commissioner Ryan Tingey and passed unanimously.

**Conditions of approval:**

1. A distance of 270 feet is required between the magazines and the county road.
2. The ground around each container must be graded so that water drains away from the magazine.
3. There must be a fire apparatus access road capable of supporting a twenty (20) ton truck. The road is to be a minimum of twenty (20) feet wide and be provided with an approved turnaround.
4. The premises must be identified with plainly legible and visible address numbers.
5. The entrance to the access road must be posted with a contact phone number
6. There must be an approved key box installed in an approved location.
7. An inspection of the site is required prior to beginning operation.
8. Additionally:
  - a. Compliance with Article 5-1 of the BECLUM&DC
  - b. Compliance with Article 2-2-100, Site Plan Review, of the BECLUM&DC
  - c. Compliance with the requirements and recommendation of the County Engineer, Building/Fire Inspector, Road Supervisor, and Health Department.
  - d. Compliance with all applicable county, state, and federal laws regulating the proposed use, including all current licenses, permits, inspections, etc.

**NEW BUSINESS**

**VICARS TRUCKING EQUIPMENT LOT, SP11-002, PROPOSED NEW BUILDING SITE FOR STORAGE OF TRUCKS AND OTHER EQUIPMENT, LOCATED ON NUCOR STEEL PROPERTY PARCEL 07-035-0001 IN THE PLYMOUTH AREA OF BOX ELDER COUNTY.**

Staff explained that this applicant was requesting approval for a site plan/permitted use in order to construct a storage building for large maintenance vehicles such as plows, graders, water trucks, etc. to be house on NUCOR property located at 20800 North 7000 West in the Plymouth area of the County which is currently un-zoned. There will be a 30' x 40' building with a cement floor and no employees will be located in the building. Vicars Trucking provides property maintenance for NUCOR Steel and are proposing the vehicle storage building in order to meet the property safety requirements. NUCOR has requested that Vicars Trucking construct this building and the Planning Commission felt that it would be a good idea to have a letter from NUCOR stating that they were aware of and had given permission for this structure to be built on their property. Vicars will be building the structure and then signing it over to NUCOR Steel.

**MOTION:** A Motion was made by Commissioner Ryan Tingey to approve the Vicars Trucking site plan for the storage building located on the NUCOR property in the Fielding area of Box Elder County with the conditions as outlined by Staff. Also, the petitioner is to obtain a letter from NUCOR stating their knowledge and approval of this building being constructed on their property. Motion was seconded by Commissioner Laurie Munns and passed unanimously.

**Conditions of approval:**

1. Compliance with Article 5-1 of the Box Elder County Land Use Code
2. Compliance with Article 2-2-100, Site Plan Review, of the Box Elder County Land Use Code
3. Compliance with the requirements and recommendation of the County Engineer, Building/Fire Inspector, Road Supervisor, and Health Department
4. Compliance with all applicable county, state and federal laws regulating the proposed use, including all current licenses, permits, inspections, etc.

**P & G, CUP11-003, LAND DEVELOPMENT FOR VARIOUS COMMERCIAL, INDUSTRIAL AND MANUFACTURING PURPOSES (AMENDING CUP10-017).**

Staff explained that this applicant was requesting an amendment to their existing Conditional Use Permit for Phase 2 of the manufacturing plant located at 5000 North Iowa String Road. The proposal is for additional site work/preparation such as sheet piling, on-site haul roads, grading/drainage modifications, and additional miscellaneous work. The work is necessary in preparing the site for a foundation to support the heavy machinery that is used in the paper manufacturing. The applicant had stated *“We are planning to execute the sheet piling but may wish to employ alternate methods to achieve the design intent . . . to keep the option open for an alternative method if it becomes cost effective.”*

Staff then reported that the site has been reviewed by the Fire Inspector, County Engineer, Road Department and all have forwarded their recommendation to approve this amendment.

**MOTION:** A Motion was made by **Commissioner Ryan Tingey** to grant approval for the Conditional Use Permit for P & G (amending CUP10-017) with the conditions as outlined by Staff. Motion was seconded by **Commissioner Jay Christensen** and passed unanimously.

**Conditions of approval:**

1. Compliance with Article 5-1 of the Box Elder County Land Use Code
2. Compliance with Article 2-2-100, Site Plan Review, of the Box Elder County Land Use Code
3. Compliance with the requirements and recommendation of the County Engineer, Building/Fire Inspector, Road Supervisor, and Health Department
4. Compliance with all applicable county, state and federal laws regulating the proposed use, including all current licenses, permits, inspections, etc.

**WORKING REPORTS**

**Text Amendment Ordinance for Chapter 3-2 of the BECLUM&DC.**

Staff explained that there are some dissimilarity between permitted uses in the Multiple Use zones of the BECLUM&DC and the County General Plan. The General Plan defines “multiple use” as the uses historically and traditionally allowed to occur on public lands such as *“grazing, recreation, timber, mining, oil/gas development, agriculture, hunting, fishing, wildlife viewing, and water resource development.”* The BECLUM&DC includes all of those uses as permitted or conditional uses in the multiple use zones EXCEPT *“mining, oil/gas development, and water resource development.”* The purpose of this text amendment would be to bring the multiple uses allowed in the General Plan and in the BECLUM&DC in line with one another. Staff is currently working on this amendment ordinance and it will be presented to the Planning

Commission at a later date with a public hearing scheduled in conjunction to receive input from the community at large.

**IDAtherm, LLC, Temporary Use Permit**

Staff explained that this applicant is requesting a temporary use permit to do some exploratory drilling in search of geothermal resources. The proposed property is owed by Tom Davis and is located at approximately 2800 West Calls Fort Road. One well will be drilled and depending on the success of the procedure, they would then move from exploration to production. However, the property is currently zoned RR-20 and exploration is allowed but production is not and the property would need to be rezoned in order to move forward with drilling for production of the geothermal resources. As this is a request for a temporary use permit it does not have to receive approval from the Planning Commission; however Staff felt that it would be appropriate to keep the Commissioners informed of such activities in the County. The request for a temporary use permit would also be reviewed by the other appropriate county department, i.e. engineer, roads, fire, etc.

**PUBLIC COMMENTS – NONE**

A **Motion** was made to adjourn at 8:30 p.m., unanimous.

Passed and adopted in regular session this 21st day of April 2011.

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Richard Day, Chairman  
Box Elder County  
Planning Commission

<sup>i</sup> The following conditions were required for concept approval during the January 20, 2011 Planning Commission meeting:

The Building/Fire Inspector has requested the following information for review prior to granting final approval:

- a. A plot plan that indicates the placement of the containers/magazines, access routes and parking facilities.
- b. An anticipated inventory of each container indicating classification of the contents and quantities.
- c. A detailed description of the container’s construction and manufacturer.
- d. A topographic map to determine drainage.
- e. A detailed statement describing the operation, maintenance, and inspection procedures as outlined in Chapter 33 of the International Fire Code.
- f. A vegetation management plan to describe the actions that will be taken to prevent a fire from being carried toward or away from the site.

The Planning Commission requested the following information:

- a. A copy of the applicants insurance policy
- b. A letter from the Fielding Fire Marshall
- c. A letter from the ATF confirming successful inspection at the current site in November 2010.
- d. A letter from the ATF confirming successful inspection of proposed site.
- e. Site Plan is for eight (8) containers only.