

ORDINANCE NO. 316

An Ordinance of Box Elder County (the "County"), amending Article 3 of the Box Elder County Land Use Management and Development Code (the "Code") by adding a new section designated 3-8-1 entitled "Master Planned Community Zone," allowing for and regulating the development of Master Planned Communities.

WHEREAS, a developer has requested that Box Elder County adopt a new zoning district entitled "Master Planned Community Zone" which would allow for the development of master planned communities within Box Elder County; and

WHEREAS, the South Willard Community Plan calls for the development of a "Planned Zone" for large subdivisions which is consistent with the idea of a "Master Planned Community Zone"; and

WHEREAS, the Planning Commission has reviewed and developed the "Master Planned Community Zone" set forth below; and

WHEREAS, the Box Elder County Planning Commission, after appropriate notice, held a public hearing on May 21, 2009, to allow the general public to comment on this proposed Master Planned Community Zone; and

WHEREAS, the Box Elder Planning Commission, after receiving input and comment from the public, has found and determined that this proposed Master Planned Community Zone will promote the general health, safety and welfare of the residents of Box Elder County; and

WHEREAS, the Box Elder County Planning Commission has recommended that the Box Elder County Commission approve and adopt this proposed Master Planned Community Zone; and

WHEREAS, the Box Elder County Commission, after appropriate notice, held a public hearing on August 4, 2009, to allow the general public to comment on this proposed Master Planned Community Zone; and

WHEREAS, the Box Elder County Commission, after receiving input and comment from the public finds that the enactment of this ordinance will be in the best interest of and promote the health, safety and general welfare of the residents of Box Elder County;

NOW THEREFORE, the Box Elder County Commission, acting as the legislative body of Box Elder County, does hereby ordain as follows:

SECTION 1: Ordinance Amendment. Article 3 of the Box Elder County Land Use Management and Development Code is hereby amended by adding a new section designated 3-8-1 entitled "Master Planned Community Zone," allowing for and regulating the development of Master Planned Communities, which shall read in its entirety as follows:

Purpose and Intent

The purpose of the Master Planned Community (MPC) Zone designation is to provide a regulatory tool which allows large properties to be developed in accordance with a specific plan and pursuant to a development agreement. The MPC relies on the submission of a specific plan, creation of unique zone descriptions, and negotiated development agreements to promote inventive and efficient land use patterns that would otherwise be difficult or impossible to accomplish under other county zoning ordinances. Such areas will result in a unified development that promotes a sense of community, high quality design standards, walkable neighborhoods, centers of activity, and increased compatibility with surrounding properties. Such areas may promote a mix of uses, traditionally separated in the county ordinance.

Specific plans are conceptual in nature but more precise than the County General Plan. Specific plans will generally include text and maps sufficient to generally delineate proposed land uses issues for the site. Specific plans shall provide goals for the area which can be translated into more formal zoning designations.

MPC Zones Created

An area approved as a MPC may generally follow the requirements of an existing conventional zone but shall be considered a new zoning district. If an existing zone is to be followed, variations from that zone are anticipated and encouraged to meet the goals of the approved specific plan. Property to which the MPC has been applied may require a General Plan change, followed by a subdivision(s) or conditional use permit(s) and shall be developed only in conformance with an approved specific plan and development agreement. Land uses appropriate to the area shall be defined in the process and in the new zone.

Eligibility

To be considered for a MPC zone, all applications shall meet the following criteria:

1. Encompass a minimum of one hundred (100) acres to assure reasonable internal and external land use compatibility. The property in question shall be

solely owned by an individual, partnership, or corporate entity, or under option to purchase by an individual, partnership, or corporate entity, at the time an MPC application is submitted; otherwise, the MPC application shall be filed jointly by all owners of the property.

2. Demonstrate in textual, visual, and oral form to the Planning Commission and the County Commission that the property in question is unique due to size, slope, natural features, sensitive lands, natural hazards, current land uses, other relevant features or that difficult hardship related conditions exist.
3. All areas of the proposed MPC zone shall be included in the specific plan.
4. Offer unique advantages over traditional forms of development as determined by the Planning Commission and County Commission.
5. A portion of the housing units shall be income targeted housing for persons of medium and low income. The number of income targeted housing units must be commensurate with the size and scope of the proposed development and is subject to the approval by the County Commission.

Master Planned Community Application Submittal

Minimum requirements for submittal to the Planning Commission are as follows:

1. An accurate legal description of the entire MPC zone to be designated. A map shall be included showing the area and vicinity. The MPC zone proposed may include more property than is currently being considered for a current development plan but which may later be developed in a subsequent phase as shown in the current development plan.
2. A specific plan including: the conceptual location, arrangement and configuration of the various land uses proposed; the general alignment of arterial, collector, and other backbone streets; the system of open spaces and pedestrian/bicycle trails; existing vegetation; potential lotting patterns; density; development amenities; proposed housing for persons of medium or low income; and other relevant information.
3. Contour information shall be provided in areas with slopes over 10%. Anticipated final grading should also be conceptually identified.
4. Proposed locations for stormwater detention and the system for collection and distribution.
5. Method of providing water and sewer service, including verification of capacity.
6. A list of permitted and conditional uses.
7. Conceptual standards for height, placement, and size of buildings including setbacks.
8. Title commitment report.
9. Payment of initial General Plan Amendment and Zoning Map/Ordinance Amendment Application fees.

Payment of Fees.

The County has limited personnel and financial resources to consider the issues raised by an MPC application. Upon payment of the initial application fees, the applicant shall schedule a meeting with the County Planner, including the County's engineer, and County's legal counsel, to prepare an initial cost estimate and/or requests for proposals for planning or other consultants the County determines are needed for review and consideration of the proposed plan, development agreement and rezoning. The need for consultants shall be at the discretion of the County Planner. After the meeting with the County Planner, the County's engineer, and County's legal counsel and an appropriate time for the receipt of proposal from needed consultants, the County shall provide the applicant with an estimate of the extraordinary expenses that will be caused by the application including, but not limited to, outside planning consultants, outside engineering consultants, and outside legal counsel. If the applicant desires to continue to process the application, the applicant shall deposit with the County twenty percent (20%) of the estimated expenses. The County shall draw on the application deposit on a monthly basis as billed by the required consultants and shall promptly provide copies of such bills to the applicant. At the end of any month when the deposit shall become lower than ten percent (10%) of the estimated expenses, the applicant shall, in order to continue processing the application, within fifteen (15) days of being notified by the County, deposit with the County such monies as are necessary to restore the deposit to being no less than ten percent (10%) of the estimated expenses. The total amount of billing to the applicant for an MPC application shall not exceed one hundred ten percent (110%) of the initial estimate. At the completion of the processing of an MPC application, any balance remaining on the deposit shall be refunded to the applicant. In the event the MPC applicant conforms to the foregoing, such application will be expedited by the County.

Selection of Planning Consultants.

In recognition of the fact that the applicant for an MPC Zone is paying the fees for outside planning and engineering consultants the County shall consult in good faith with the applicant in selecting such planning consultants. The County shall choose engineers, which shall be chosen at the sole and unfettered discretion of the County specifically, prior to choosing the planning consultants, the County and the applicant shall meet and attempt to create a process that complies with State law and the County Code in obtaining proposals for such services. After proposals are received for the provision of such planning services, the County and the applicant shall cooperate in choosing the consultants considering such factors as the cost and timing for performing such services and the experience of the proposers in successfully working on projects of the type being proposed. The applicant, in its sole discretion, shall be entitled to veto the selection of any one planning consultant. The ultimate selection of the consultants shall be the County's.

Rezoning Required

The rezoning shall follow procedures outlined in the County Code for such processes. No rights to any development pursuant to this MPC Ordinance shall accrue to any property until all of the requirements of this MPC Ordinance are satisfied, including the execution and recordation of a development agreement. The zone approval shall include the following:

1. A specific plan including maps, text, and supporting information as defined in the previous section.
2. The text for the draft property-specific MPC zone, and any associated sub-districts, to be implemented, generally defined with the following elements:
 - A. Name of Zone/Purpose/Goals
 - B. Lot area, width, setbacks, building heights, lot coverage, and housing densities.
 - C. Streetscapes, parking, and circulation
 - D. Fencing
 - E. Signs
 - F. Architectural standards
3. A development agreement that runs with the land.

Zone Designation

Each MPC zone shall, after its adoption, have a unique designation pertaining to the area to be rezoned. It shall be designated by the prefix "MPC" and then a descriptive title for the area it is intended to cover. Each new MPC zone shall be added to this chapter.

Phasing

Projects may be phased over a defined number of years. For example, a project may have an initial phase of land contouring or gravel extraction, and then lead into residential or commercial construction or development. Phasing shall be defined as part of the specific plan and shall be a part of the development agreement.

Phases and property may be added to a particular MPC zone subject to an amendment to the specific plan and development agreement.

Exceptions or Variations From the Approved Specific Plans

After adoption of the MPC, during the construction process, there may be a need for modifications to the plans. Changes to the specific plans shall be made pursuant to the processes specified therefore in the approved development agreement or, if there are no such procedures, the Planning Commission shall hold a hearing and make a

determination in favor, against, or a modification to the proposal. All approved specific plans shall be strictly followed.

Zoning Reversion

If substantial construction or the initial defined phase is not begun within seven (7) years or as otherwise provided in the development agreement, the MPC zone will be considered abandoned and revert to the previous zone designation without any additional action by the County Commission or the Planning Commission, or in lieu of automatic reversion to the previous zone designation the County may elect to rezone the property to some other zoning classification other than the previous zone designation. Extensions of the zoning designation may be granted by the County Commission, if legitimate reasons are offered by the applicant or property owner, or the Commission finds that it is in the best interest of Box Elder County to continue the zone designation.

SECTION 2: Effective Date. This ordinance shall become effective fifteen (15) days after its adoption and first publication as required by law.

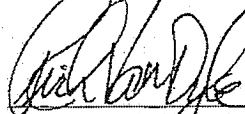
PASSED, ADOPTED AND A SYNOPSIS ORDERED PUBLISHED this //~~11~~
day of August, 2009, by the Board of County Commissioners of Box Elder County,
Utah,

YEA
YEA

Commissioner Hardy Voting

Commissioner Shaffer Voting

Commissioner VanDyke Voting



Rich VanDyke, Chair
Box Elder County Commission

Attest:

LuAnn Adams
Box Elder County Recorder/Clerk