

BOX ELDER COUNTY PLANNING COMMISSION MINUTES JULY 21, 2022

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
Kevin McGaha	Member
Lonnie Jensen	Excused
Steven Zollinger	Excused
Bonnie Robinson	Member
Jed Pugsley	Member
Jennifer Jacobsen	Alternate/Member
Vance Smith	Excused

the following Staff was present:

Scott Lyons	Comm Dev Director
Marcus Wager	County Planner
Destin Christiansen	County Planner
Steve Hadfield	County Attorney
Jeff Scott	Excused
Diane Fuhrman	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 Mellonee Wilding.

The following citizens were present & signed the attendance sheet

See Attachment No. 1 – Attendance Sheet.

The Minutes of the June 16, 2022 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by Commissioner Jed Pugsley to approve the minutes as written. The motion was seconded by Commissioner Kevin McGaha 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.

ZONING MAP AMENDMENT, Z22-012, Request for a zone change of 92.4 acres from RR-20 (Rural Residential 20,000 sq. ft.) to C-G (General Commercial), located at approximately 1650 North 2400 West in the West Corinne area of Unincorporated Box Elder County.
ACTION

Staff stated the applicant is requesting that parcel 03-068-0020 be rezoned from RR-20 (Rural Residential - 20,000 sq. ft. lots) to the C-G (General Commercial) zone. The parcel is in the West Corinne/West Brigham City area and contains approximately 92.4 acres. The intent is to use a portion (appx. 2 acres) as a landscape and garden materials supply yard which the current zoning does not allow. The surrounding land uses are Agriculture and Commercial with Brigham City and I-15 to the east. The surrounding zones are RR-20/County and RR-20/Brigham City and C-G/Brigham City.

Staff explained zoning map amendments are a legislative proceeding and 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.

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 dairy farms and is generally a large lot, agricultural area. The vision for the area suggests continuing the agricultural heritage of the area, while allowing for some flexible, residential lot sizes through residential clustering and expanding the industrial/warehousing uses in the area (ex: Walmart and Proctor & Gamble).

Additional information: Brigham City’s Future Land Use Map for their proposed annexation area calls for “Highway Commercial” zoning defined as, “commercial uses that cater to the highway service and retail areas.”

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 highway commercial operations to the south of the property (both

unincorporated and within Brigham City limits). 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. Commercial zoning and properties exist to the south, I-15 to the east, and agricultural properties to the north and west; however, 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.

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 Zoning Map Amendment Z22-012. The motion was seconded by Commissioner Kevin McGaha and passed unanimously.

ACTION

Staff gave an example of a potential, impactful use for the General Commercial zone could be paper product manufacturing (books and/or newspaper manufacturing (conditional use)) or food product manufacturing (baked goods, dairy, confectionery, etc. (conditional use))

Commissioner Bonnie Robinson is concerned with the whole parcel being changed to the commercial zone. She would be more in favor of having the petitioner split the parcel so the parcel on the west side of 2400 W. stays in the current zone of Agriculture. She said the parcel also borders Brigham City, so it makes sense to her to encourage them to annex into Brigham City.

Staff said if the applicant were to split off 2 to 5 acres of the east piece, they would need to go through the subdivision process. If the applicant chose to split the east piece from the west piece that is already divided by 2400 West, because they are separated by a road, it would be allowed just by the legal description.

Commissioner Mellonee Wilding thinks the proposal is not harmonious with the character of the existing development to have the possibility of that large of an industrial area. It also is not consistent with the goals, objectives and policies of the General Plan.

Commissioner Kevin McGaha summarized there are two ways this proposal can move forward. One being to subdivide and petition for a smaller zone change, the other is to annex into Brigham City.

Commissioner Jed Pugsley would be more comfortable if the parcels were split.

MOTION: A Motion was made by Commissioner Bonnie Robinson to forward a recommendation of approval to the County Commission for application Z22-012, a zoning map amendment from RR-20 (Rural Residential-20,000 sq. ft. lots) to the C-G (General Commercial) zone and adopting the conditions and findings of staff and with the modification of the 2 acres planned for the landscape business be zoned commercial leaving the remainder to stay in the current zone, and encourage the petitioner to annex into Brigham. 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.

ZONING MAP AMENDMENT, Z22-013, Request for a zone change of 639.61 acres from Unzoned to MG-EX (Mining, Quarry, Sand, & Gravel Excavation), located at approximately 14000 North 9700 West in the Bothwell/Tremonton area of Unincorporated Box Elder County. ACTION

Staff stated the applicant is requesting that parcel 06-003-0050 (639.61 acres) be rezoned from Unzoned to the MG-EX (Mining, Quarry, Sand & Gravel Excavation) zone. The parcel is in the Bothwell/Tremonton area. The surrounding land use is Agriculture with a gravel pit to the south. The surrounding zones are Unzoned and Unzoned/RR-5.

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 the following for the future land use in the Bothwell area: as part of the agricultural heritage area large lot zoning should remain, to encourage continued agricultural activity. A GIS lot size analysis should be performed to evaluate additional zoning options.

In the Natural Resources Section the General Plan it states: We conserve our natural resources, which have inherent value and contribute to our quality of life in Box Elder County.

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 and some gravel pit uses. The Planning Commission needs to decide if an MG-EX 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 do not exist on this side of the freeway, the developer would have to verify this and bring them into the project if they are not there.

The public hearing was then opened for comments.

Jay Harwood is involved in this project. He explained they could level out the area, starting at one end of the county gravel pit and working their way north, reclaiming the other areas behind it. He said they would be starting with 40 acres, not all of the 600 acres at one time. When they are done it would be leveled and re-seeded and probably easier for the sheep to graze. He said the reason they approached the 600 acres instead of breaking off a piece (the long term goal is 200 acres) is if in the future the Jensen's want to expand more than the 200 acres, they can up to the 600 acres.

Hearing no further comments, a motion was made by **Commissioner Bonnie Robinson** to close the public hearing on the Zoning Map Amendment, Z22-013. The motion was seconded by **Commissioner Jed Pugsley** and passed unanimously.

ACTION

Commissioner Mellonee Wilding asked once the zoning changes, who puts the conditions on the gravel pit? She would like to make sure it will be re-vegetated. Staff explained once the zoning is done, then it goes through staff as an administrative conditional use and staff places the conditions. Also all the newer pits have a 5-year plan and are required to submit a new plan every 5 years. At that time we address what portion of the pit is open and what portions are being reclaimed.

Commissioner Jared Holmgren said if they are going to go back to grazing after the pit is done, it is in their best interest to re-vegetate. He noted this gravel pit will probably improve the water shed in the area as well as making it less steep. There will be more water that will soak in rather than run across the freeway.

MOTION: A Motion was made by **Commissioner Jared Holmgren** to forward a recommendation of approval to the County Commission for application Z22-013 a zoning map amendment from Unzoned to the MG-EX (Mining, Quarry, Sand & Gravel Excavation) zone and adopting the conditions and findings of staff. The motion was seconded by **Commissioner Bonnie Robinson** and passed unanimously.

CONDITIONS:

1. Compliance with Section 2-2-080, Zoning Map and Text Amendments, of the Box Elder County Land Use Management & Development Code.
2. Compliance with Chapter 3-9, Mining, Quarry, Sand, & Gravel Excavation Zone, of the Box Elder County Land Use Management & Development Code.
3. Compliance with Article 5 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.

NEW BUSINESS

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

Staff said 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 surrounding land uses are Rural Residential and Agriculture. The surrounding zones are Unzoned with the Town of Fielding to the north. Access would be via a proposed new road connecting to 300 West/100 South in Fielding Town.

Staff has received utility will-serve letters for the gas, power, and water. There are 13 water connections available which will cover Phase 1, but six more will be needed to cover Phase 2. Secondary water has not been addressed as of yet.

Staff is waiting for a Letter of Map Amendment from FEMA which will officially change the location of the mapped floodplain. The county subdivision ordinance states “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 applicant has been advised that Lots 3-6 Phase 1, and Lots 17-19 Phase 2, are all less than one acre and are within the floodplain. The applicant is working with FEMA on the LOMA process.

Staff is concerned with what the FEMA letter is going to say. If FEMA says the flood plain has been modified, then the subdivision layout would work. If that is not the case and FEMA will not modify it, or does a partial modification, then the applicant would need to redraw the layout of the lots to adhere to the requirements of the land use code in regards to flood plains.

Commissioner Kevin McGaha asked if this subdivision creates a snow removal obligation for the county? Staff contacted the County Road Supervisor who said some years Fielding has contracted their snow removal with an outside contractor and some years they have used the county.

MOTION: A Motion was made by Commissioner Bonnie Robinson to table application SS22-020, a preliminary plat for the Alpine Spring Estates Subdivision located in unincorporated Box Elder County, for six (6) months based on needing the letter from FEMA and adopting the exhibits, conditions and findings of staff. The motion was seconded by Commissioner Jed Pugsley and unanimously carried.

CONDITIONS:

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. Compliance with all County Staff reviews and comments.
4. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.

5. Compliance with Chapter 6-1, Subdivisions, of the Box Elder County Land Use Management & Development Code.
6. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.

SUMMER LAND RANCHES PHASE 1 SUBDIVISION, SS22-021, Request for preliminary approval for a 12 lot subdivision located at approximately 10800 West 13600 North in the Bothwell area of Unincorporated Box Elder County. ACTION

Staff said the applicants are requesting preliminary approval of the Summer Land Ranches Subdivision plat. The proposed subdivision is for 12 new lots, averaging 5.61 acres. The existing parcel is 70.47 acres. The surrounding land uses are Rural Residential and Agriculture and the surrounding zones are all RR-5. Access will be off 10800 West as well as a new road, 13400 North. All utility will-serve letters have been received as well as the feasibility letter from the Bear River Health Department. A geotechnical report has also been received.

Based on the information received and presented, staff recommends approval.

MOTION: A Motion was made by Commissioner Bonnie Robinson to approve the application SS22-021, a preliminary plat for the Summer Land Ranches Subdivision, Phase 1 and adopting the exhibits, conditions and findings of staff with emphasis on the county reviews and comments being completed. The motion was seconded by Commissioner Kevin McGaha and unanimously carried.

CONDITIONS:

1. Compliance with all County Staff reviews and comments.
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.

WORKING REPORTS - NONE

PUBLIC COMMENTS

Kirk Coombs, Town of Fielding Councilmember is concerned with the access to the Alpine subdivision. The access off 300 West and the access of 1st South are both half streets, only 12 ft. wide. There is no way to get an ambulance or fire trucks into the area.

Jeri Garn is representing the adjacent landowners to the Alpine Subdivision. She gave a handout to the Commissioners expressing their concerns.

(See attachment No.2 - Handout.)

Kevin Garn, Fielding, gave a history of the pond on the property. The pond was built by his family 30 years ago. The drain line runs through Fielding and goes to the canal. The Bear River Health Department tested the water and found it full of sewage. It was found some of the landowners had directly punctured the drain line and put in their sewage lines. This was all cleaned up and he has tried to maintain it since. The FEMA line is also concerning to him. It is hard to move a FEMA line. He is also worried about liability with the pond and snow removal.

Kathryn Willis has 540 ft. on the southwestern side of the proposed subdivision and thinks this is going to be a difficult situation. She questioned if the developer is to reach out to the surrounding landowners of their intentions of a subdivision. Staff explained the property in question is Unzoned and a subdivision is a permitted use. Neighbors are notified regarding zone changes but are not notified regarding permitted uses. It was however, published on the Box Elder County Website and the state's public noticing website.

ADJOURN

MOTION: A Motion was made by Commissioner Jed Pugsley to adjourn commission meeting. The motion was seconded by Commissioner Kevin McGaha and meeting adjourned at 8:03 p.m.



Mellonee Wilding, Chairman
Box Elder County Planning Commission

PLANNING COMMISSION MEETING

THURSDAY JULY 21, 2022

NAME	ADDRESS	AGENDA ITEM
Jay Harwood	Kamas, Utah	Zoning
Stacie Webster	Cottonwood Heights, UT	Zoning
Lane Jensen	Bear River	Zoning
Kirk Coombs	Fielding UT	Zoning
Tina Coombs	Fielding UT	Zoning
Shane Bartholme	672 N. 200 W, Willard	Subdivision approval
Wyatt Garn	Fielding UT	Subdivision
Calee Garn	Fielding UT	Subdivision
JIM FLINT	538 N MAIN BRIGHAM CITY	SUMMERLAND
Jeri Garn	Fielding UT	Alpine Springs
Kevin Garn	Fielding UT	Alpine Springs
Kathryn Willis	Mesa AZ	Alpine Springs

Proposed Alpine Spring Estates Subdivision

Adjacent landowners: Garn Farms Partnership, Cripple Creek LLC, Katisa LLC

Represented by Kevin & Jeri Garn

Concerns of adjacent landowners:

- LIABILITY
- WATER USE JUDGEMENT ON THE POND
 - WATER LINE EASEMENT
- PROXIMITY OF SEPTIC LEACH LINES TO IRRIGATION SOURCE
 - 2-CUL DE SACS
- HEALTH & SAFETY OF POTENTIAL HOMEOWNERS AND ADJACENT LANDOWNERS

LIABILITY: *Note traffic pattern picture*

Liability of a large scale agricultural working yard: Who is responsible for the wondering pet or unsupervised human trespassing into the adjacent yard upon an accident or death? Should the developer be responsible for "fencing in" his potential community members from potential hazard or accident? Should the subdivision have covenants attached to the property requiring fencing and / or homeowners acknowledging and accepting potential risk thus holding the adjacent landowners harmless from legal claims from accident or death due from trespass?

Liability of a open body of water: As 2 of the adjacent landowners own 50% of the water of the pond; who is responsible for accident or death of a human or animal occurring on the open body of water? Should the developer be responsible for the liability of placing 40-100 people on the potential risk hazard? Again should there be required covenants to the subdivision? Why shouldn't the developer and the home owner assume personal liability?

WATER USE JUDGEMENT ON THE POND:

The court judgement attached to the property of Alpine Spring Estates and Garn Farms Partnership states: There is a 50% ownership of pond water assigned to Alpine Spring Estates and 50% ownership of the pond water assigned to Garn Farms Partnership. Any pumping as secondary water by Alpine Springs will need to have a pumping system in place before use and the assigned water schedule is every other week. There also is a water line easement on both properties for repair and maintenance of the underground irrigation pipe.

WATER LINE EASEMENT: *Note Waterline Easement pictures*

As adjacent landowners, we have notified the developer of an underground irrigation line in the proposed lots numbered 13,14,15, and 16. Our request to the developer was to move the waterline to the edge of the subdivision's west property line so as the easement for repair of the line would not be in the middle of a future established back yard of a homeowner. The irrigation line is old and there is real certainty that the line is going to need access to the line for repair and maintenance. The developer responded that it was cost prohibitive for him to move the line and we, as landowners of the line would have mitigate repairs and maintenance with the 4 future individual homeowners. The easement would show up in the property description of each lot. If the developer is changing the use of the original purpose of the ground, shouldn't the developer be held responsible for the changes of land use?

PROXIMITY OF SEPTIC LEACH LINES TO LANDOWNER'S IRRIGATION:

Can we, as adjacent landowner's be assured by Box Elder County and the Utah State Health Department that the proposed subdivision's septic leach lines will not contaminate the pond water, which is used for irrigation? How do we protect our crops from septic leakage and who is responsible if septic leakage shows up in the irrigation water?

2 CUL DE SACS:

In the new Box Elder Growth Management Plan it is stated that cul de sacs should be used conservatively. In this proposed subdivision there 2 proposed cul de sacs.

How is the snow and water removal being addressed? What is the proposed plan for discharge of snow and water?

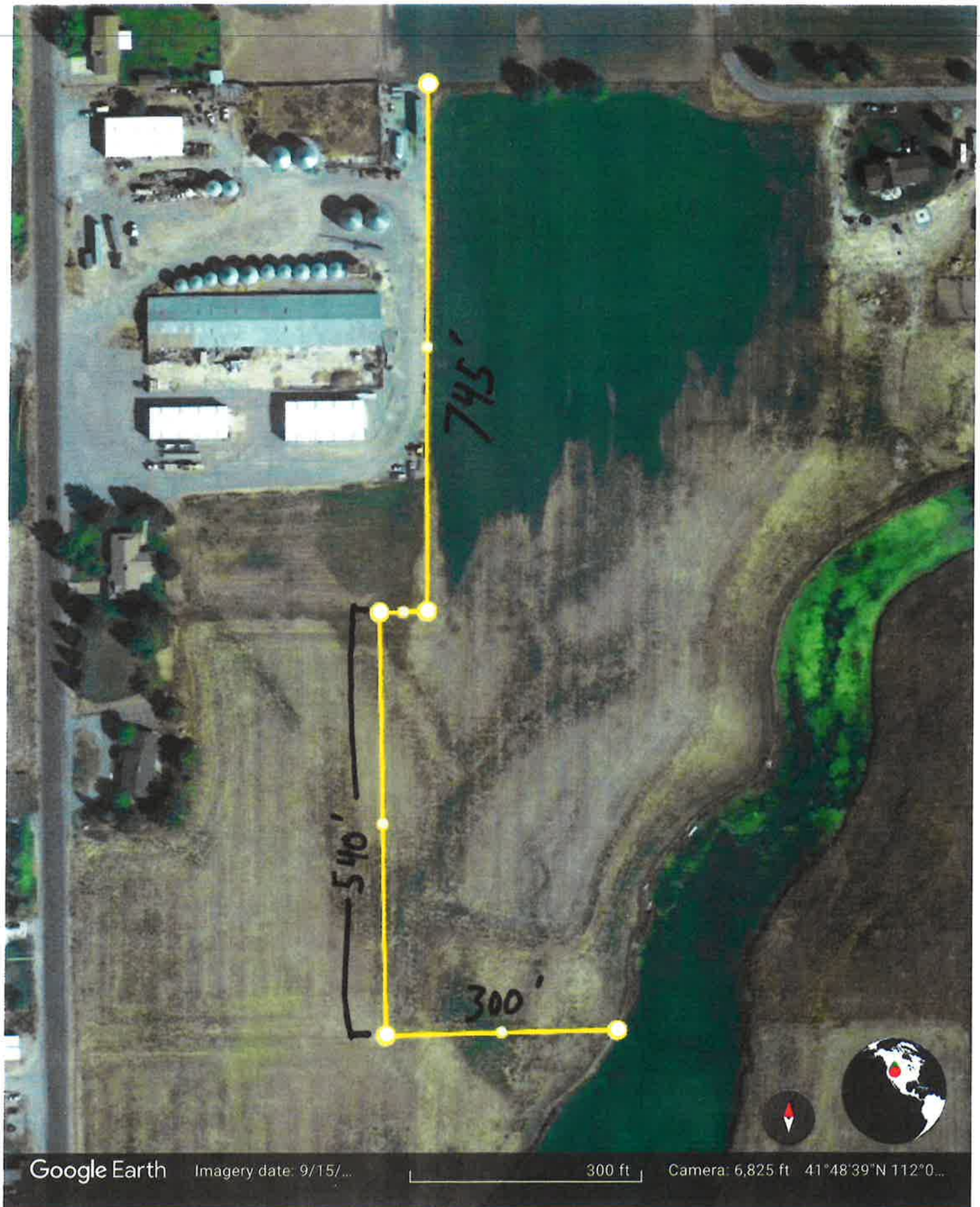
How is the increased traffic flow being directed?

HEALTH & SAFETY CONCERNS:

Clustering a large amount of homes in a small area surrounded by active agriculture should raise health & safety concerns to those developing, planning and living in these concentrated neighborhoods. As the financial and personal liability has been discussed earlier, it should be noted that concentrated housing next to an active agricultural operation poses smells, noise, risks and hazards to those who choose to live next door to these operations. As has been seen with new development in other parts of Fielding, the developer comes in with his project, and leaves the unassuming and uninformed homeowner to be schooled and tutored by the farmer, rancher and the next door municipality. Perhaps it should be the responsibility of the those who change the land use to do due diligence with potential homeowners and adjacent landowners instead of breeding contention among the innocent parties. In Chapter 6 of the Box Elder County Land Use Management & Development Code it states the purpose of the code is To promote and protect the public health, safety and general welfare. To provide for harmonious and coordinated development of the County, and to ensure sites suitable for building purposes and human habitation.

Traffic pattern of the farm yard





Water Line Easement

