

ELMORE COUNTY
PLANNING AND ZONING COMMISSION

MINUTES

Wednesday, November 18, 2009 at 7:00 pm

Chairperson Nettleton called the meeting to order. Members of the Elmore County Planning and Zoning Commission present were Chairperson Nick Nettleton, Vice Chairperson Patti Osborn, Rusty Trail, Al Sobtzak, Sue Fish, Betty Van Gheluwe, Debbie Lord and KC Duerig. Also present were Attorney of Record Phil Miller, Director Alan Christy and staff members Beth Westerwelle and Kacey Hulthenius.

Nettleton established a quorum.

PUBLIC HEARINGS

CONTINUATION OF BOISE STATE UNIVERSITY, Todd Haynes for a Variance for Height for an Anemometer (to collect and record wind speed) and a Conditional Use Permit for an Anemometer in a Light Industrial (M1) Zone. (Case #'s CUP-2009-08 & VAR-2009-09.) The site is located in Township 1 South, Range 4 East, Section 23, B.M. Property is located from I-84, south on Simco Road to Lewandowski Lane. The property is located on the left side of the road, the address is 2136 E Lewandowski Lane.

Westerwelle gave staff report and background.

Todd Haynes is the applicant. He stated that he had spoken with Lt. Col. Tom Rasmussen of the Idaho Army National Guard and he stated that they would not require a light on the tower since it is less than 200 feet in height. He stated that the National Guard already has it marked on their maps.

No one signed up to testify.

Nettleton closed this public hearing.

COMMISSION ACTION

Sobtzak moved to approve.

Osborn seconded.

Motion carried unanimously.

Ark Properties, LLC (John McCallum) for a Conditional Use Permit for a 4-Lot Letter of Information in an Agriculture Zone. (Case # LOI-2009-06.) The site is located in Township 5 South, Range 9 East, Section 5, Northwest ¼ of the Southeast ¼ quarter, B.M. A common way of locating this property is from the intersection of Hammett Road and Old Oregon Trail, travel ¼ mile east on Old Oregon Road to the end of the property.

Westerwelle gave staff report and background.

Gordon Sorenson is a land surveyor representing the applicant. He stated that he has nothing to add and agrees with what is in the staff report. Nettleton stated that this area is not in open range but there are cattle that run on all sides of it. Sorenson stated that yes on all sides except from the south along the road. Nettleton asked if the applicant would be willing to put cattle guards in. Sorenson stated that they have no

objections to the condition in the staff report regarding fencing but that it would be up to the future property owners to put cattle guards in.

Gerry Gorrell stated the he is in favor of this project. He stated all this applicant is trying to do is enhanced the future value of his property and there is no reason why he should not be allowed to do so.

Elsie Riggs is opposed. She stated that she believes that one should be able to do what they want with their own property as long as it doesn't put a hardship on the surrounding property owners. She stated that her areas of concern are strains on resources such as roads, water, and emergency services. She stated that this area is part of the historical Oregon Trail and that should be preserved as well.

Maureen Brent stated that it is interesting that they only people in favor of this project are the surveyor and the real estate agent. She stated that this land should be preserved for agriculture.

Gordon Sorenson stated that the applicant is doing this for the future of his heirs. He stated that he irrigates all that he has the right too and there will be enough land left over after this split for agriculture. He stated that Central District Health has approved these lot splits as far as water and sewer are concerned and himself, as an engineer, see no problems.

There was no further testimony.

Nettleton closed this public hearing.

COMMISSION ACTION:

Osborn stated that under the old ordinance there are 9 standards an application must meet to be approved and she is not sure this one meets all of those standards. She stated that it does not meet standard #3 - The proposed conditional use will be designed, constructed, operated and maintained to be harmonious with the existing or the intended character of the general vicinity and such use and/or expansion will change the essential character of the area. She stated that most of the parcels existing in the area are currently 40 acres. She stated that the intent is to have wide open spaces and that type of density is what should be maintained. Sobtzak stated that this application falls under the old ordinance and in the past these have been approved.

Osborn moved to deny as it does not meet standard #3 but all other standards were met. The Commission members agreed that the other standards were met.

Duerig seconded.

Motion carried with a 5-3 vote. Sobtzak stated voted NAY due to the fact that he believes it does meet the 9 standards and in the past these types of splits have been approved. Fish stated that she voted NAY due to the fact that this application falls under the old ordinance it was allowed. Nettleton stated that he voted NAY due to the fact that there are existing homes and smaller lots within the area. Miller asked the Commission Members if anything could be done to gain approval. Osborn stated the only thing would be to pull the application.

Casa Del Norte (John McCallum) for a Conditional Use Permit for a 4-Lot Letter of Information in an Agriculture Zone. (Case # LOI-2009-12.) The site is located in Township 4 South, Range 9 East, Section 8, Southeast ¼ of the Southeast ¼ quarter, B.M. A common way of locating this property, travel to the intersection of Ryegrass Road with Ross Road, then east 2 ¼ mile on Ryegrass Cutoff Road, land is on the north side of the road.

Casa Del Norte (John McCallum) for a Conditional Use Permit for a 4-Lot Letter of Information in an Agriculture Zone. (Case # LOI-2009-13.) The site is located in Township 4 South, Range 9 East, Section 10, Southwest ¼ of the Northeast ¼ quarter, B.M. A common way of locating this property, travel on Walker Road to the intersection with Ryegrass Cutoff Road, land is in the northwest quadrant of the intersection.

Casa Del Norte (John McCallum) for a Conditional Use Permit for a 4-Lot Letter of Information in an Agriculture Zone. (Case # LOI-2009-14.) The site is located in Township 4 South, Range 9 East, Section 9, Northeast ¼ of the Northeast ¼ quarter, B.M. A common way of locating this property, travel on Walker Road to the intersection with Ryegrass Cutoff Road, then ¾ mile west, land is on the north side of the road.

Casa Del Norte (John McCallum) for a Conditional Use Permit for a 3-Lot Letter of Information in an Agriculture Zone. (Case # LOI-2009-15.) The site is located in Township 4 South, Range 9 East, Section 15, Northeast ¼ of the Northwest ¼ quarter, B.M. A common way of locating this property, travel on Walker Road to the intersection with Ryegrass Cutoff Road, then back ¾ mile south, land is on the north side of the road.

Casa Del Norte (John McCallum) for a Conditional Use Permit for a 4-Lot Letter of Information in an Agriculture Zone. (Case # LOI-2009-17.) The site is located in Township 4 South, Range 9 East, Section 10, Southeast ¼ of the Northwest ¼ quarter, B.M. A common way of locating this property, travel on Walker Road to the intersection with Ryegrass Cutoff Road, then back ½ mile west, land is on the south side of the road.

Casa Del Norte (John McCallum) for a Conditional Use Permit for a 4-Lot Letter of Information in an Agriculture Zone. (Case # LOI-2009-18.) The site is located in Township 4 South, Range 9 East, Section 10, Northwest ¼ of the Northwest ¼ quarter, B.M. A common way of locating this property, travel on Walker Road to the intersection with Ryegrass Cutoff Road, then ½ mile west, land is on the north side of the road.

THE SIX PUBLIC HEARINGS WERE HEARD TOGETHER

Westerwelle gave staff reports and backgrounds.

Gordon Sorenson stated for the record that these applications were filed under the old ordinance. He stated similar applications have been passed and these applications should be no different. He stated that if these applications are denied that he would like to receive a copy of the minutes as soon as possible as the applicant may appeal the decision. Christy informed Sorenson that there is a 15 day appeal period under the old ordinance.

Gerry Gorrell signed up to testify in support but did not wish to speak.

Maureen Brent signed up to testify in opposition. She asked the Commission to take notice of the comments that she gave in the immediately preceding public hearing.

Elsie Riggs is in opposition to this application. Nettleton asked her to comment on the Oregon Trail going through this area. Riggs stated that that particular piece of ground has always been historic as she was raised there. She stated that the Oregon Trail is clearly marked with white stakes. She stated that the old stage stop was on this property as well. She stated that cattle run all over the countryside. She stated that if there are going to be homes and people living in this area they must have cattle guards. She stated that if there are homes with children, dogs, or dirt bikes that the cattle will not stay in the area.

Gordon Sorenson responded to the public testimony. He stated that he was not aware of Oregon Trail in this area. Nettleton informed him that it is clearly marked. Sorenson stated that there are no markers on these lands.

There was no further testimony.
Nettleton closed this public hearing.

COMMISSION ACTION:

Osborn moved to deny these applications as they do not meet standard # 3- The proposed conditional use will be designed, constructed, operated and maintained to be harmonious with the existing or the intended character of the general vicinity and such use and/or expansion will change the essential character of the same area.

Duerig seconded.

Nettleton stated that even though they may deny these applications they should have reasonable conditions if it is appealed to the Board of County Commissioners. He stated that one of the conditions should be that the applicant should have to fence and provide cattle guards into each lot because otherwise there will be cattle in subdivisions. Miller stated that this should be put into the FCO rather than as a condition if appealed. Sobtzak stated for the record that he believes that since this application was filed under the old ordinance that it does meet the 9 standards and he is opposed to this motion. Nettleton stated that while he understands that this is under the old ordinance this particular property is reaching farther out than most LOI's and that they would be consistent on denying this application. Van Gheluwe stated that the motion should be amended to reflect the 2 LOI's that are not in the Oregon Trail area. Lord stated that she would like to amend the previous motion to say that standard #2- Will the conditional use be in harmony and in accordance with the Comprehensive Plan and this Ordinance for all of these LOI's and standard #9- Will the proposed conditional use result in the destruction, loss or damage of a natural or scenic feature of major importance have not been met for LOI's 13, 14, 17, and 18 according to the applicants testimony.

Osborn amended her motion to add the items discussed by Commission Members Lord and Van Gheluwe. Duerig seconded the amended motion.

Motion carried with a 6-2 vote with Sobtzak and Fish voting NAY due to that fact that under the old ordinance these types of application have been approved in the past.

OLD BUISNESS

A.E.H.I., Comprehensive Plan Staff Report

Osborn stated that for the record that she will recues herself to avoid a perceived conflict of interest.

Christy gave staff report and background. He stated that the Commission Members have three options for moving forward on the proposed rezone application:

1. Offer a recommendation to the Elmore County Board of Commissioners that no action be taken to amend the Comprehensive Plan.
2. Conduct a public hearing for comment on whether the Elmore County Planning and Zoning Commission should commence the process to amend the Comprehensive Plan
3. Move forward with amending the Comprehensive Plan. Schedule a Planning and Zoning workshop session on proposed Comprehensive Plan Amendments.

Duerig stated that the first step would be to move forward with option 3 as outlined in the staff report.

Trail disagreed. He stated that they put M2 (Heavy Industrial) zoning on Simco Road only is because that is what the Planning and Zoning Commission meant. He stated that they should go with option 1.

Sobtzak stated that he agrees with Duerig that they should give some consideration to amending the Comprehensive Plan. He stated that they need to consider other uses that may be compatible with Agricultural land in Elmore County for an industrial use, not just AEHI. He stated that while the Simco

Approved

Approved

Road area is good for industrial uses, there is no water there, which some industrial uses require. Duerig stated that if they leave the Comprehensive Plan the way it is they will deny the rest of the County the opportunity to possibly use their land for industrial uses. He stated that he thinks they have to look at the possibility to rezone to M2 and approach each application on its own merit if it becomes before them. Fish stated that they should discuss whether there are other areas in the county where this type of use is available.

Van Gheluwe moved that the Planning and Zoning Commission move forward with amending the Comprehensive Plan. Schedule a Planning and Zoning workshop session on proposed Comprehensive Plan Amendments to discuss

Duerig seconded.

Motion carried 4-3 with Trail, Lord, and Nettleton voting NAY.

Workshop sessions are scheduled for December 2, 2009 and January 13, 2009.

NEW BUSINESS

Revocation of CUP for McElroy Gulch Subdivision

Westerwelle gave staff report and background. She stated that the previous and current owners of this property were sent notification of this revocation on October 1, 2009 and neither party has contacted the Growth and Development Department.

Sobtzak moved to revoke the Preliminary Plat and Conditional Use Permit for McElroy Gulch Subdivision due to lack of progress.

Osborn seconded.

Motion carried unanimously.

Election of Officers

Commission consensus was to elect Nettleton as Chairperson and Osborn and Vice Chairperson.

FCO's and MINUTES

FCO for McDaniel, Amend Conditional Use Permit, Case # CUP-2009-06

Commission consensus was for staff to refer this back to staff and revisit it on December 2, 2009.

FCO for XRG - Conditional Use Permit, Case # CUP-2009-07

Sobtzak moved to approve as written.

Osborn seconded.

Motion carried unanimously.

FCO for XRG - Variance, Case #VAR-2009-08

Sobtzak moved to approve as written.

Osborn seconded.

Motion carried unanimously.

Minutes from 11-04-09

Osborn moved to approve as written.

Duerig seconded.

Motion carried unanimously.

INFORMATION ITEMS

111809mins

kh

Approved

Approved

Christy informed the Commission Members of the dates and times of the meetings in December.
Christy informed the Commission Members that the Growth and Development Department received a new large format plotter.

ITEMS FROM THE PUBLIC

Kurt Nelson asked if anyone on the Planning and Zoning Commission had any financial interest in AEHI or if they own any stock with the company. The Commission and staff members stated that they did not have any financial interest in AEHI.

MEETING ADJOURNED

Nick Nettleton, Chairperson

Date:



12-2-09

Attest:
Alan Christy,
Director



12-2-09
Date: