

**ELMORE COUNTY
PLANNING AND ZONING COMMISSION**

MINUTES

Wednesday, February 4, 2009 at 7:00 pm

Chairperson Nettleton called the meeting to order, and established a quorum. Members of the Elmore County Planning and Zoning Commission present were Chairperson Nick Nettleton, Patti Osborn, Al Sobotzak, and Rusty Trail. Also present were Attorney of Record Phil Miller, and staff members, Bonnie Sharp, Kacey Hultenius, Beth Westerwelle, and Robert Knight.

PUBLIC HEARINGS

Jeremy Updegraff for a Conditional Use Permit for a Wrecking Yard in an Agricultural B Zone. The site is located in Section 14, Township 3 South, Range 6 East, B.M.

Knight gave staff report and background.

Jeremy Updegraff is the applicant. He submitted pictures of the property before and after he moved on to the property. He stated that he has removed a lot of waste and debris. Sobotzak asked about the number of cars that would be housed on this property. Updegraff stated the maximum quantity would be 60 vehicles. Osborn asked if the applicant would be doing any on site sales. Updegraff stated that all of the business would be done online through Craig's List. He stated that customers would only be on site to pick up parts. He stated that most of the cars on the property belong to him or close friends.

Courtney McNicol spoke in support. She stated that Updegraff has done a great job of cleaning up this property and making it look much better than it was previously.

Billy Ireland spoke in support. He stated that Updegraff is very responsible and is working very hard to make everything up to code.

David Ireland spoke in support. He stated that the applicant is responsible and has helped his family out with their vehicles.

Jerry Heitzman is the owner of J&S Towing and is in support. He stated that he does business with the applicant. He stated the used oil from his cars is placed into a 55 gallon drum and removed from the property.

Ivrey Carrie is a friend of the applicant and is in support. He stated the applicant has a plan for everything that he does and he is going in a good direction with all of this.

Shawn Groesbeck is in support. He stated that he and the applicant are good friends and that the applicant has helped him with many projects.

Nick Groesbeck is in support. He stated that the applicant has helped him with a transmission in his vehicle and is there to support his efforts.

Andy Winings is in support. He stated that the applicant has cleaned up the property and is very clean and careful with fluids coming off of the vehicles.

H. Ralph Cole spoke in opposition. He stated that this would not be harmonious with the neighborhood. He stated that there is no way to hide this from public view.

Tom Sheffield spoke in opposition. He stated that this application would bring down the property values of the homes surrounding it.

Patrick Engelhardt is in opposition. He stated that there is a difference between owning and renting property. The applicant does not own this property. He stated that he is concerned with his property value decreasing

with this right next to him. He stated that he is concerned with the fluids from these vehicles leaking into the ground and possibly contaminating the aquifer.

Paul Bates lives directly across from the applicant and is in opposition. He stated that the applicant is a good neighbor but he was not informed that there would be 60 vehicles and is worried about his property value decreasing.

David Weddle is in opposition. He provided the Commission Members with pictures of this property. He stated that he can see more and more cars being brought to the property everyday and that he can hear noise late into the evening. He stated that he can see the wrecking yard from every window of his house and it is an eye sore. Nettleton asked if there was any way that the applicant could conceal the property from view that would be satisfactory. Weddle stated that there would be no way to remove it from his sight.

Charles Cairns is in opposition. He stated that he is concerned with groundwater contamination and this changing the rural way of life that exists out there.

Paul Loll is opposed to the project. He lives in the area and stated that he spoke with the county code enforcement officer about Updegraff and was told that he was supposed to get a CUP before the vehicles were moved onto the property. He stated that the fence required for this is far from being acceptable. He stated that a 12 foot fence would not be sufficient and out of place for this area. He stated the number of cars would be far too great for this area and that there is enough wrecking yard in this county as it is.

Tom Ducharme lives in the area and is opposed. He stated that he has to view this property every day and there is no way to put a fence up that can block the wrecking yard. He stated that this does not fit into the neighborhood.

Mary Reisinger is opposed to the project. She stated that she lives directly above the area; she stated that she does want her property value to decrease due to this wrecking yard.

Paul Carpentier is a friend of the applicant speaking in support. He stated he has done business with the applicant and he has done a lot of work to clean up the property.

Lori Weddle is opposed to the project. She stated that she lives directly above the applicant. She stated that she can see the wrecking yard from every window of her home. She stated that she does not want to look at junk.

Chuck Whipple is speaking in the neutral position. He stated that he is impressed with the applicant and his clean up of the property. He stated that most of the problems are environmental issues.

Jeremy Updegraff wished to give a rebuttal to the public testimony. He stated that his business has existed since 2006. He stated that due to family issues he could not get his CUP in a timely manner. He stated that he has recently acquired more vehicles than was expected in the beginning and that is his reason for this application. Regarding the noise, he stated that at times a tow truck will bring in a vehicle late at night and he has tried to keep this noise level at a minimum but cannot always do so. He stated that the pallets that are on the property are going to be cut up and used for heat in his home as well as in his shop. Sobtzak asked how late he works in the evenings. Updegraff stated that he tries not to work past 10:00 pm. He stated that occasionally late in evenings he can come off from a tow but he has no control over the time that happens.

Osborn asked about containment of fluids coming from the vehicles and how it would be handled.

Updegraff stated that he has spoken with DEQ and he has met their standards. He stated that he uses 55 gallon drums that are set on a containment device for spills and he uses a floor dry substance that is specifically designed for chemical absorption. He stated that he does not work in the dirt for the most part but if he does he picks up the dirt at that time and disposes of it immediately.

There was no further testimony.

Nettleton closed this public hearing.

Commission action:

Sobtzak stated that he was concerned with granting a CUP to a tenant. Miller stated that there is nothing that prohibits this. He stated that when the tenant vacates the property then the CUP goes with the land. He

stated that the Commission Members could draft the CUP to state that when the applicant vacates the property the CUP does as well. The Commission Members decided to go over the standards for a CUP:

1. The proposed conditional use **WILL**, in fact, constitute an allowed conditional use in that zone, as determined by the Land Use Matrix and Zoning District regulations Chapter 1, Article VI and Article VIII.
The Elmore County Planning and Zoning Commission ruled that, yes the proposed Wrecking Yard did qualify as a conditional use as determined by the Official schedule of District Regulations for the Zoning District, by a vote of 4-0. **PASS**
2. The proposed conditional use **WILL** be in harmony with goals and objectives of the Comprehensive Plan and with all the applicable provisions of the Zoning and Development Ordinance.
The Elmore County Planning and Zoning Commission ruled that, yes the proposed Wrecking Yard would meet the minimum requirements to be harmony with and in accordance the Comprehensive Plan and this Ordinance, by a vote of 4-0. **PASS**
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 will not change the essential character of the same area.
The Elmore County Planning and Zoning Commission ruled that, no the proposed Wrecking Yard would not be in harmony with the existing character of the general vicinity and that the proposed Wrecking Yard would not be in character with the area that is essentially residential, by a vote of 3-1. **FAIL**
4. The proposed conditional use **WILL NOT** be hazardous or disturbing to existing or future neighboring uses.
The Elmore County Planning and Zoning Commission ruled that, yes the proposed Wrecking Yard could create inherent hazards or be disturbing, but could be mitigated, by a vote of 3-1. **PASS**
5. The proposed conditional use **WILL** be served adequately by existing essential public facilities and services such as highways, streets, schools, police and fire protection, drainage structures, refuse disposal, water and sewer or the person responsible for the establishment of the proposed conditional use shall adequately provide any such services.
The Elmore County Planning and Zoning Commission ruled that, yes based on the fact that the proposed Wrecking Yard would be adequately served by these services, by a vote of 4-0. **PASS**
6. The proposed conditional use **WILL** have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public streets.
The Elmore County Planning and Zoning Commission ruled that, yes based on the application the proposed Wrecking Yard would meet this standard, by a vote of 4-0. **PASS**
7. The proposed conditional use **WILL NOT** create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
The Elmore County Planning and Zoning Commission ruled that, yes the proposed Wrecking Yard met this standard, by a vote of 4-0. **PASS**
8. The proposed conditional use **WILL NOT** involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of the environment, or excessive production of traffic, noise, smoke, fumes, glare, or odors.
The Elmore County Planning Zoning and Commission could not find that the application met this standard because of a 2-2 vote. **FAIL**
9. The proposed conditional use **WILL NOT** result in destruction, loss or damage of a natural or scenic feature of major importance.

The Elmore County Planning and Zoning Commission ruled that, no the Wrecking Yard would not result in the destruction, loss or damage of a natural or scenic feature of major importance, by a vote of 4-0. **PASS**

Osborn moved to deny
Trail seconded.
Motion to deny carried.

COMMISSION VOTE:

CHAIRPERSON NICK NETTLETON	VOTED AYE
PATTI OSBORN	VOTED AYE
AL SOBTZAK	VOTED NAY
RUSTY TRAIL	VOTED AYE

New Business

Pacific Winds LLC request for extension of Conditional Use Permit.

Trail recused himself from these proceedings.

Sobtzak moved to approve for two years as requested with an update at one year.

Osborn seconded.

Motion carried unanimously.

Sunrider Ranch Subdivision request for extension of Conditional Use Permit.

Trail rejoined the proceedings.

Osborn moved to approve for one year.

Trail seconded.

Motion carried unanimously.

Planning and Zoning Commission Member resignation.

Vice Chairperson McNicol has written a letter of resignation from the Planning and Zoning Commission. Commission consensus is to send this to the Board of County Commissioners.

Elect new Vice Chairperson.

Osborn stated that previously in the Vice Chairpersons absence she was the interim Vice Chairperson.

Commission consensus was to have Osborn act as Vice Chairperson until a new one is elected.

Penelope Steward request for Administrative Lot Split in Beverly Hills Subdivision.

Osborn moved to allow an Administrative Lot Split in Beverly Hills Subdivision.

Trail seconded.

Motion carried unanimously.

FCO's and Minutes

Minutes from 1-7-2009

Osborn moved to approve.

Sobtzak seconded.

Motion carried unanimously.

FCO Livers

Peter Livers requested that the additional condition on his FCO be revised.

Osborn moved to approve with the correction that the applicant shall in any deed to a subsequent purchaser attach or include a disclosure that the property is in the neighborhood of open range and any property owner desiring to exclude livestock from said property would be responsible for erecting his own fences.

Approved

Approved

Trail seconded.

Motion carried unanimously.

INFORMATION ITEMS

Proposed amendments to ordinance

Sharp presented the Commission Members with changes to the proposed zoning ordinance presented to the Board of County Commissioners after their public hearing.

ITEMS FROM THE PUBLIC

MEETING ADJOURNED

Nick Nettleton, Chairperson

Date:

Attest: _____

Bonnie Sharp, Administrator

Date: