

ELMORE COUNTY PLANNING AND ZONING COMMISSION
War Memorial (American Legion Hall), 515 East 2nd South Street, Mountain Home, ID
83647

Wednesday, July 16, 2014 at 7:00pm

Agenda

PLEASE SILENCE CELL PHONES

CALL TO ORDER

ESTABLISH QUORUM

- | | |
|---|---|
| <input type="checkbox"/> Chairperson Patti Osborn | <input type="checkbox"/> Vice-Chairperson K.C. Duerig |
| <input type="checkbox"/> Debbie Lord | <input type="checkbox"/> Betty Van Gheluwe |
| <input type="checkbox"/> Sue Fish | <input type="checkbox"/> Ed Oppedyk |
| <input type="checkbox"/> Shane Zenner | <input type="checkbox"/> Jeff Blanksma |
|
 | |
| <input type="checkbox"/> Attorney of Record Phil Miller | |

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

- **Continuation for Red Baron Estates Pilots and Homeowners Association to Amend an existing Conditional Use Permit CUP-2004-10 in a Agriculture (AG) Zone. Case Number: CUP-2014-10. The site is located in the S1/2 NE1/4, NE1/4 SE1/4, Section 30, Township 1 South, Range 5 East, B.M.** A common mean of locating the property is from Interstate 84 take exit 74, turn north on Simco Rd. to Desert Wind Rd., turn right on Desert Wind Rd., travel approximately 3.7 miles to Piper St. Property is on the North side of Desert Wind Rd.

ITEMS FROM THE PUBLIC

FCOS and MINUTES

- FCO for Case Number: CUP-2014-09.
- Minutes from 06-18-2014.

INFORMATION ITEMS

- Upcoming P & Z Schedule.

MEETING ADJOURNED



Elmore County Land Use and Building Department

520 East 2nd South Street
Mountain Home, ID 83647
Phone: (208) 587-2142 ext. 254
Fax: (208) 587-2120
www.elmorecounty.org

Alan Christy
Director

Tell Riley
Building
Inspector

Beth Bresnahan
Planner I

Kacey
Ramsauer
Administrative
Assistant

Staff Report to the Planning and Zoning Commission

Meeting/Hearing Date: 7/16/14

Date Report Compiled: 7/7/14

Report Revision: 2

Agenda Item: Amend an existing Conditional Use Permit CUP-2004-06,
CUP-2010-02

Applicant: Red Baron Estates Pilots and Homeowners Association

Case Number: CUP- 2014-10

Staff: Beth Bresnahan

Location: S1/2 NE1/4, NE1/4 SE1/4, Section 30, Township 1 South, Range 5 East,
B.M. A common mean of locating the property is from Interstate 84 take exit
74, turn north on Simco Rd. to Desert Wind Rd., turn right on Desert Wind
Rd., travel approximately 3.7 miles to E. Piper St. Property is on the North
side of Desert Wind Rd.

Zoning: All parcels Agriculture (Ag)/Wildfire Urban Interface (WUI) Overlay/ Oasis
Community District Overlay

Parcel(s):

RP 002770010010 A- Red Baron Estates Pilots and Homeowners Assoc.,
RP 002770010020 A- Jody Bickle,
RP 002770010030 A- Shawn Steffler,
RP 002770010040 A- Allen Cannon,
RP 002770010050 A- Jody Bickle,
RP 002770010060 A- Richard Dixon,
RP 002770010070 A- Nicholas Andros,
RP 002770010080 A- Kenneth & Sheila Casper,
RP 002770010090 A- Kenneth & Sheila Casper,
RP 002770010100 A- Kenneth & Sheila Casper,
RP 002770010110 A- Kenneth & Sheila Casper,
RP 002770010120 A- Kenneth & Sheila Casper,
RP 002770010130 A- Ruth Gyman,
RP 002770010140 A- Kenneth & Sheila Casper,
RP 002770010150 A- Joshua & Christina Platt,

RP 002770010160 A- Kenneth & Sheila Casper,
RP 002770010170 A- Kenneth & Sheila Casper,
RP 002770010180 A- Francis & Marcelline Brady,
RP 002770010190 A- Blake Richardson,
RP 002770010200 A- Kenneth & Sheila Casper,
RP 002770010210 A- Kenneth & Sheila Casper,
RP 002770010220 A- Red Baron Estates Pilots & Homeowners Assoc.,
RP 002780010230 A- Kenneth & Sheila Casper,
RP 002780010240 A- Kenneth & Sheila Casper,
RP 002780010250 A- Matthew Misner,
RP 002780010260 A- Gary Brown,
RP 002780010270 A- Delta J. Enterprises LP,
RP 002780010280 A- Giacalone Living Trust,
RP 002780010290 A- Kenneth & Sheila Casper,
RP 002780010300 A- Giacalone Living Trust,
RP 002780010310 A- Red Baron Estates Pilots and Homeowners Assoc.,
RP 002780010320 A- Kenneth Heller,
RP 002780010330 A- Petrunia LLC,
RP 002780010340 A- Giacalone Living Trust,
RP 002780010350 A- Giacalone Living Trust,
RP 002780010360 A- Bernd Wegner,
RP 002780010370 A- Kenneth & Sheila Casper,
RP 002780010380 A- Robert William Riegler Trust,
RP 00278001039F A- Brian & Tina Dockstader,
RP 00278001040D A- Bernd Wegner,
RP 00278001040E A- Bernd Wegner,
RP 002780010410 A- Red Baron Estates Pilots and Homeowners Assoc.,
RP 002860010010 A- Kenneth & Sheila Casper,
RP 002860010020 A- Kenneth & Sheila Casper,
RP 002860010030 A- Kenneth & Sheila Casper,
RP 002860010040 A- Kenneth & Sheila Casper,
RP 002860010050 A- Kenneth & Sheila Casper,
RP 002860010060 A- Kenneth & Sheila Casper,
RP 002860010070 A- Red Baron Estates Pilots and Homeowners Assoc.,
RP 01S05E301355 A- Robert & Cynthia Hunter,
RP 01S05E301360 A- Kenneth & Sheila Casper,
RP 01S05E301650 A- Ronald & Rosanna Castle,
RP 01S05E301360 A- Michael Petersen,
RP 01S05E301640 A- Judith O'Dell & Richard Taylor,
RP 01S05E301740 A- Jonathan & Heather McDaniel,
RP 01S05E301745 A- Raymond & Teresa Fitting,
RP 01S05E301750 A- Red Baron Estates Pilots & Homeowners Assoc.

Parcels Delinquent Property Taxes as of 7/3/2014:

RP 002770010080 A- Kenneth & Sheila Casper = \$1,046.04,

RP 002770010090 A- Kenneth & Sheila Casper = \$1,046.04,
RP 002770010100 A- Kenneth & Sheila Casper = \$1,046.04,
RP 002770010110 A- Kenneth & Sheila Casper = \$1,046.04,
RP 002770010120 A- Kenneth & Sheila Casper = \$1,046.04,
RP 002770010140 A- Kenneth & Sheila Casper = \$1,032.78,
RP 002770010150 A- Joshua & Christina Platt = \$426.64,
RP 002770010160 A- Kenneth & Sheila Casper = \$1,046.04,
RP 002770010170 A- Kenneth & Sheila Casper = \$1,046.04,
RP 002770010200 A- Kenneth & Sheila Casper = \$1,046.04,
RP 002770010210 A- Kenneth & Sheila Casper = \$951.72,
RP 002780010230 A- Kenneth & Sheila Casper = \$1,026.08,
RP 002780010240 A- Kenneth & Sheila Casper = \$1,046.04,
RP 002780010270 A- Delta J. Enterprises LP = \$1,522.82,
RP 002780010290 A- Kenneth & Sheila Casper = \$1,046.04,
RP 002780010370 A- Kenneth & Sheila Casper = \$1,046.04,
RP 002780010380 A- Robert William Riegler Trust- \$15.49,
RP 002860010010 A- Kenneth & Sheila Casper = \$28.74,
RP 002860010020 A- Kenneth & Sheila Casper = \$1,655.84,
RP 002860010030 A- Kenneth & Sheila Casper = \$1,168.68,
RP 002860010040 A- Kenneth & Sheila Casper = \$1,254.40,
RP 002860010060 A- Kenneth & Sheila Casper = \$1,162.96,
RP 01S05E301360 A- Kenneth & Sheila Casper = \$0.10,
RP 01S05E301630 A- Michael Petersen- \$14.18,
Total Properties with Delinquent Taxes: \$21,766.87 24 properties

BACKGROUND:

Application for amending an existing conditional use permit was tabled at the public hearing on June 18, 2014 in order to determine if the pilots association has the legal authority to act as the permittee for the conditional use permit and if the secretary has the authority within the bylaws to ask for amendments to the conditional use permit.

Notice of public hearing was sent to surrounding property owners on June 20, 2014 and was mailed to agencies on June 20, 2014. Notice of public hearing was published in the Mountain Home Newspaper on June 25, 2014. Property was posted on July 7, 2014.

LETTERS FOR THE RECORD

1. Letter from Frank Brady, dated 6-19-2014

2. Letter from Alan Christy, Director Land Use and Building Department, dated 6-26-2014
3. Email from Byron Schmidt, 366 OSS, dated 6-25-2014
4. Email from Samuel Shearman, 366 CES, dated 6-25-2014
5. Elmore County Treasurer/Assessor- 24 parcels within the subdivision are delinquent on taxes. (see parcel numbers on page 2-3)
6. Letter with attachments from Rick Taylor and Judy O'Dell dated 6-18-2014
7. Email with attachments from Rosie Castle dated 7-2-2014
8. Letter from Ruth Gyman received on 7-3-2014
9. Letter with attachments from Soles Rest Creek HOA board, Bob Ruth received on 7-3-2014
10. Email from Phil Miller dated 7-3-2014
11. Email to Rosie Castle dated 7-7-2014
12. Email from Rosie Castle dated 7-9-2014 with attachments

ATTACHMENTS

1. Posting photos taken 7-7-2014

THE TWELVE STANDARDS ALL CONDITIONAL USES MUST MEET ARE:

1. **The proposed use shall, in fact constitute a Conditional Use as determined in Chapter 8, Table 6-8-11 (C), Elmore County Land Use Table, as contained in this Ordinance;**

Staff Response:

This application is an amendment to an existing Conditional Use Permit, CUP-2004-10, Amended CUP-2004-10. A new Conditional Use Permit is required per section 6-27-2 B of the Elmore County Planning and Zoning Ordinance.

2. **The proposed use shall be in harmony with and in accordance with the Elmore County Comprehensive Plan and this Ordinance (Title 6);**

Staff Response:

There is a possibility of conflict with the Comprehensive Plan, Private Property Rights Objectives: 7- Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods, 10- Property owners acknowledge and expect that Elmore County will preserve private property rights and values by enforcing regulations that will ensure against incompatible and detrimental neighboring land uses, and Ordinance in that it will be detrimental to existing neighbors.

3. **The proposed use complies with the purpose statement of the applicable base zone and with the specific use standards as set forth in this Chapter;**

Staff Response:

Staff believes the proposal is applicable with the base zone if it complies with “site development standards” pursuant to section 6-8-5 A.

- 4. The proposed use shall comply with all applicable County Ordinances;**

Staff Response:

Staff has concerns that the expansion will not comply with all ordinances, including Chapter 8 and Chapter 27 of the Zoning and Development Ordinance. Use may not meet required findings for conditional use permit.

- 5. The proposed use shall comply with all applicable State and Federal regulations;**

Staff Response:

Staff has proposed conditions that this proposed use be in compliance with FAA and Idaho Department of Transportation Division of Aeronautics.

- 6. The proposed use shall be designed, constructed, operated, and maintained in such a way as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity; and that such use shall not change the essential character of said area;**

Staff Response:

Staff has concerns with the neighboring properties existing and future uses. 46 lots are able to utilize portions of the runway, any expansion may have impacts on neighboring properties.

- 7. The proposed use shall not be hazardous or disturbing to existing neighboring uses or impede their normal development;**

Staff Response:

Because the Commission has previously found that “guests/invitees” would be hazardous and disturbing to neighboring properties, staff has concerns of the number of planes utilizing the airport would be unrestricted and a potential for too many aircraft utilizing the runway. There are a total of 46 lots that have access to the runway. Any expansion may be hazardous or disturbing to neighbors. No information has been provided regarding the limits, capacity or design of the runway.

- 8. The proposed use shall be served adequately by available public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer, or that the person responsible for the establishment of the proposed conditional use shall be able to provide adequately any such services;**

Staff Response:

Public facilities and services are existing on the property. Fire District has requested a fire tank for suppression.

9. **The proposed use shall not create excessive additional requirements at public cost for public facilities and services and the proposed use shall not be detrimental to the economic welfare of the County;**

Staff Response:

No public facilities or services are proposed with this amendment. Any improvements requested by the Fire District should be funded by the applicant. Staff has concerns that the delinquent taxes will harm the economic welfare of the county.

10. **The proposed use shall not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;**

Staff Response:

The proposed use has the potential to be detrimental to neighboring properties with excessive noise or traffic.

11. **The proposed use shall have vehicular approaches which shall be so designed as not to create an interference with traffic on surrounding public or private roadways;**

Staff Response:

No new vehicular approaches will be constructed with this proposal.

12. **The proposed use shall not result in the destruction, loss or damage of a natural or scenic feature of major importance.**

Staff Response:

The proposed use will not result in the destruction, loss or damage of a natural or scenic feature or major importance.

STAFF COMMENTS

Staff has the following concerns:

- *Increase in use (expansion) may be detrimental to surrounding neighbors. The airpark/airport maybe conflicting with neighboring uses as shown in attachment 9.
- *Prior FCO's state residents/landowners are to be using the airpark.
- *Outstanding taxes.
- *If approved an unlimited number of air planes could utilize the site. Staff has seen no information regarding the limits, capacity or design of the runway.

STAFF RECOMMENDATIONS

Staff recommends opening and conducting the public hearing. At the conclusion of the hearing the commission has the option to:

- Deliberate at a date certain.
- Request additional information and table to date certain.
- Conduct deliberations and approve.
- Conduct deliberations and approve with conditions.
- Conduct deliberations and deny with reasoning how to obtain approval.

PROPOSED CONDITIONS OF APPROVAL

If approved staff would recommend the following conditions of approval. The proposed conditions do not take into account any public testimony at the hearing. Conditions 4 through 7 were proposed by staff in 2010:

1. Failure to comply with this agreement or any previously approved applicable conditions will result in revocation of the conditional use permit.
2. All outstanding fees and taxes must be paid in full.
3. Installation of a 10,000 gallon water source, Class B self-contained foam unit and 20 pound class D dry powder extinguisher.
4. Records must be kept for how many take off and landings at the airstrip. The records must be turned into the Land Use and Building Department once a year.
5. Each homeowner or tenant is allowed no more than three (3) aircraft invitees at anytime.
6. Aircraft will not taxi to the runway from neighboring properties outside the Red Baron Estates unless approved through a separate Conditional Use Permit.
7. No more than two (2) public open houses may be conducted per year. Notice of public events will be provided to neighbors within one (1) mile, fifteen (15) days in advance.
8. Expansion will comply with all State and Federal Regulations.

received
6-23-14/ctz
Certified mail

RED BARON ESTATES PILOTS & HOMER OWNERS ASSOCIATION

1950 E AERONCA COURT

OASIS, IDAHO 83647-5104

6-19-2014

To: Elmore County Land Use & Building Dept.

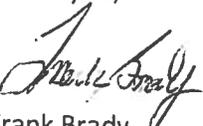
520 East 2nd South Street

Mountain Home, Idaho 83647

Mr. Allen Christy,

I was asked to give you a message from Mr. Bill Statham, he would like for you to call him, his number is (208) 334-8785. He is from Division of Aeronautics, at Idaho Transport Department. His comment to you "There are NO Requirements for Any Small or Municipal Airport to have Fire Fighting Equipment on Airports". His question he would like answered from you is "What Justification for these Requirements? He would like to know?" Please give a call.

Thank you,


Frank Brady



Elmore County Land Use and Building Department

520 East 2nd South Street
Mountain Home, ID 83647
Phone: (208) 587-2142 ext.254
Fax: (208) 587-2120

Alan Christy
Director

Tell Riley
Building Inspector

Beth Bresnahan
Planner I

Kacey Ramsauer
Administrative
Assistant

June 26, 2014

Red Baron Estates Pilot's & Home Owner's Association
1950 E Aeronca Court
Oasis, ID 83647

Mr. Brady:

This letter is in response to a letter my department received on June 23, 2014. I have tried calling my Statham at the phone number listed in your letter. Currently, the phone number is disconnected or not in use. Please be advised that the Idaho Department of Transportation Division of Aeronautics has been notified of Red Baron's Conditional Use Permit application and hearing. Any correspondence from them will be added to the record for the public hearing.

In regards to your question(s) the County can place any condition on a conditional use permit that it deems reasonable. Section 6-4-8.D of the Elmore County Zoning and Development Ordinance ("Ordinance") states:

"The Commission may require or recommend conditions of approval that it deems necessary to protect the public health, safety, and welfare and/or to prevent undue adverse impacts on surrounding properties."

The Planning and Zoning Commission will make a decision in accordance with Ordinance requirements and if necessary determine conditions based upon the information provided in the application, public testimony and information provided from agencies.

If you have any additional questions please let me know.

Sincerely,

Alan Christy

Director

Elmore County Land Use & Building Department
520 East 2nd South, Mountain Home, ID 83647
Ph: (208) 587-2142 ex. 269 \ Fax: (208) 587-2120
achristy@elmorecounty.org \ www.elmorecounty.org

Received 6/25/14
via email BB

Beth Bresnahan

From: SCHMIDT, BYRON L GS-11 USAF ACC 366 OSS/OSOA <byron.schmidt@us.af.mil>
Sent: Wednesday, June 25, 2014 10:22 AM
To: Elmore County Growth and Development (PnZ) (achristy@elmorecounty.org); Beth Bresnahan (bbresnahan@elmorecounty.org)
Cc: RUONA, AARON L Maj USAF ACC 366 OSS/OSO; ROBERTS, JASON N Lt Col USAF ACC 366 OG/OSS/DO; SHEARMAN, SAMUEL A III GS-11 USAF ACC 366 CES/CENP
Subject: CUP-2014-10

Alan/Beth,

The application for a Conditional Use Permit (CUP) CUP-2014-110 (amendment to CUP-2004-06), with regard to Red Baron Estates Pilots and Homeowners Association, DOES NOT have any implications for flight operations in or around Mountain Home AFB airspace. I have CC'd Mr. Sam Shearman, our land use planner, and he will be responding to this as well from his perspective.

If there are questions about this response, please let me know. Thank you.

Byron Schmidt, DAFC
Chief, Airspace Management
COM: 208-828-4722
DSN: 728-4722
FAX: 4573

Received
6/25/14 via
BB email

Beth Bresnahan

From: SHEARMAN, SAMUEL A III GS-11 USAF ACC 366 CES/CENP
<samuel.shearman@us.af.mil>
Sent: Wednesday, June 25, 2014 1:42 PM
To: Elmore County Growth and Development (PnZ) (achristy@elmorecounty.org); Beth Bresnahan (bbresnahan@elmorecounty.org)
Cc: SCHMIDT, BYRON L GS-11 USAF ACC 366 OSS/OSOA
Subject: RE: CUP-2014-10

Alan/Beth,

There are also no negative implications from the land use perspective with regards to the Conditional Use Permit application submitted by Red Baron Estates and Homeowners Association.

Please let me know if you have any questions.

V/R,

Sam Shearman

Community Planner, RLA
366 CES/CENP
1030 Liberator St.
Mountain Home AFB, ID 83648
Comm: (208)828-2734 DSN: 728-2734

FOR OFFICIAL USE ONLY: This electronic transmission contains FOR OFFICIAL USE ONLY (FOUO) information which must be protected under the Privacy Act of 1974 (see 5 U.S.C. 552a and AFI 33-332). Do not release outside of DOD channels without the consent of the originator's office unless specifically authorized by the Privacy Act. This information is also exempt from disclosure under the exemption 6 of the Freedom of Information Act, 5 U.S.C. 552. If you received this message in error, please notify the sender by reply e-mail and delete all copies of this message.

-----Original Message-----

From: SCHMIDT, BYRON L GS-11 USAF ACC 366 OSS/OSOA
Sent: Wednesday, June 25, 2014 10:22 AM
To: Elmore County Growth and Development (PnZ) (achristy@elmorecounty.org); Beth Bresnahan (bbresnahan@elmorecounty.org)
Cc: RUONA, AARON L Maj USAF ACC 366 OSS/OSO; ROBERTS, JASON N Lt Col USAF ACC 366 OG/OSS/DO; SHEARMAN, SAMUEL A III GS-11 USAF ACC 366 CES/CENP
Subject: CUP-2014-10

Alan/Beth,

The application for a Conditional Use Permit (CUP) CUP-2014-110 (amendment to CUP-2004-06), with regard to Red Baron Estates Pilots and Homeowners Association, DOES NOT have any implications for flight operations in or around

Mountain Home AFB airspace. I have CCd Mr. Sam Shearman, our land use planner, and he will be responding to this as well from his perspective.

If there are questions about this response, please let me know. Thank you.

Byron Schmidt, DAFC
Chief, Airspace Management
COM: 208-828-4722
DSN: 728-4722
FAX: 4573



Elmore County Land Use and Building Department

Received 6/25/14
BSB

520 East 2nd South Street
Mountain Home, ID 83647
Phone: (208) 587-2142 ext.254
Fax: (208) 587-2120

Alan Christy
Director

Toll Riley
Building Inspector

Beth Bresnahan
Planner I

Kacey Ramsauer
Administrative
Assistant

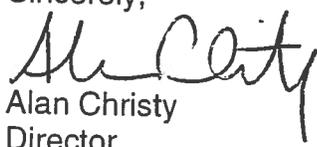
Elmore County Assessor – Parcel Number: SEE ATTACHED
 Comments: PIF = Paid in full
 Elmore County Treasurer – Taxes 1st Half 0 2nd Half
 Late Charges: Yes No Comments: See attached
6-24-13 Amber Sloan

Date: June 19, 2014
 To: Whom It May Concern
 Subject: Notice of Continuation of Public Hearing
 Applicant: Red Baron Estates Pilots and Homeowners Association:
 Amend existing Conditional Use Permit Case # CUP-2004-06
 Case #: CUP-2014-10

A continuation for a public hearing will be held before the Elmore County Planning and Zoning Commission on the enclosed application. The continued hearing is scheduled for Wednesday, July 16, 2014 at 7:00 p.m. in the War Memorial (American Legion) Hall at 515 East 2nd South Street, Mountain Home, Idaho.

Please review the application and return your written comments to the Elmore County Land Use and Building Department, 520 East 2nd South Street, Mountain Home, ID, 83647, by 5 p.m. on Thursday July 3, 2014, so your comments are included in the record. If you prefer, please come to the hearing to testify before the Commission.

If you have any questions or if we can be of any assistance, please do not hesitate to contact the office. To ensure compliance with the American Disabilities Act (ADA) of 1993, the Elmore County Clerk the responsible coordinator. Provisions will be made for persons with disabilities who are unable to attend this hearing. A grievance procedure is available from M. Bate, Elmore County Courthouse, in accordance with the ADA regulations.

Sincerely,

 Alan Christy
 Director
 Enclosures: Application
 AC:bsb

6/18/2014

received
6/18/2014

KR
Brought into office

To the Planning and Zoning Board

I see a problem with this application. There are 2 very important documents that are not part of Red Baron Estates Pilots and Homeowners Association Inc., an Idaho Non-Profit Corporation, and I believe they need to be included:

1. The Avigation agreement signed with O'Dell/Taylor
2. The court consent order that supports the Avigation agreement is the Red Baron's easement over the property at the west end of the runway that does not belong to the airport. This court order is forever. Red Baron's easement is for the west end ONLY. It is for 175 ft, not the whole desert, and not ALL of our property.

This must be an oversight because it is not part of the application as ordered by judgment.

The Order states all parties shall support, so make that order part of this amendment as ordered by judgment. Adopt it, support it and enforce it, live by it to the letter. I am sure that Judge Lynn Norton will. Red Baron sued for this order, it is theirs forever, says judgment. So let's get this thing worked out. This nonproductive crap has got to stop.

Now, if this airport subdivision means that the surrounding property owners have no rights or protection from its effect, somebody better get out the checkbook, so we all can move far away from its encroachment and trespasses for a peaceful existence elsewhere.

Please take a look at all the money spent for this Red Baron Airport. Look at all the time and effort to get everything put in place with the FAA, the buyout of opposing properties, the surveys, the cost of platting the subdivision, cost of preparing and paving a 2942 x 50 ft runway. The money spent on attorneys to protect our rights and the Red Baron's agenda of wanting rental hangars and houses, associates members, and now guests.

After such an investment and putting everything on the line, to be held up by 2 words (REMAIN PRIVATE) is not fair. We know, as our CUP was denied because it would be detrimental to the small private airfield. To do nothing is not fair either. So much potential revenue lost.

I'd like to offer a solution to this: Rezone section 30 to commercial 1&2 to reflect all the time and money already put out on this one section, to open up more opportunities, and tax it accordingly.

Let's get back to work. Let them have their commercial airport, which is what they are requesting. Let them build an airport observation lounge and diner plus C store to help promote their success. Surely this is a commercial venture, as private ventures don't have associate memberships, do they?

Rick Taylor
4
Judy O'Dell

72

FILED

2013 FEB -5 AM 11:47

CLERK OF THE DISTRICT COURT
DEPUTY [Signature]

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ELMORE

RED BARON ESTATES PILOTS AND
HOMEOWNER'S ASSOCIATION, INC., an
Idaho non-profit corporation,

Plaintiff,

vs.
RICHARD A. TAYLOR AND JUDITH
O'DELL, husband and wife,

Defendants.

Case No. CV-2011-1027

JUDGMENT

RICHARD A. TAYLOR AND JUDITH
O'DELL, husband and wife,

Counterclaimants,

vs.
RED BARON ESTATES PILOTS AND
HOMEOWNER'S ASSOCIATION, INC., an
Idaho non-profit corporation,

Counterdefendant.

Based upon the Consent Order entered by the Court on February 5, 2013, Counts One, Two and Three of the First Amended Complaint are dismissed with prejudice with all parties bearing their own fees and costs.

The Counterclaims in the Answer, Counterclaim, and Third Party Claims are dismissed with prejudice with all parties bearing their own fees and costs.

JUDGMENT

The Third-Party Claims in the Answer, Counterclaim, and Third Party Claims are dismissed with prejudice with all parties bearing their own fees and costs.

Dated this ^{5th} day of February, 2013.


Lynn G. Norton
District Judge

JUDGMENT

CLERK'S CERTIFICATE OF MAILING

I certify that a true and correct copy of the foregoing document was sent to the following:

MARCUS K. WARD
403 Blaine Street
Caldwell, ID 83605
U.S. MAIL

DAVID P. CLAIBORNE
1101 W. River Street, Suite 110
P.O. Box 7985
Boise, ID 83707
U.S. MAIL

Dated this 5th day of February, 2013.

BARBARA STEELE
Clerk of the District Court

By 15/sealed
Deputy Clerk

FILED

2013 FEB -5 AM 11:31

BARTLETT JUDGE
CLERK OF THE COURT
DEPUTY
[Signature]

**DAVID P. CLAIBORNE (ISB#6579)
SAWTOOTH LAW OFFICES, PLLC
1101 W. River St., Ste. 110
P.O. Box 7985
Boise, Idaho 83707
Telephone: (208) 629-7447
Facsimile: (208) 629-7559**

**Attorneys for Plaintiff, Counterdefendant,
and Third Party Defendants**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ELMORE**

**RED BARON ESTATES PILOTS AND
HOMEOWNER'S ASSOCIATION, INC., an
Idaho non-profit corporation,**

Plaintiff,

v.

**RICHARD A. TAYLOR AND JUDITH
O'DELL, husband and wife,**

Defendants.

Case No. CV-2011-1027

CONSENT ORDER

**RICHARD A. TAYLOR AND JUDITH
O'DELL, husband and wife,**

Counterclaimants,

v.

**RED BARON ESTATES PILOTS AND
HOMEOWNER'S ASSOCIATION, INC., an
Idaho non-profit corporation,**

Counterdefendant.

<p>RICHARD A. TAYLOR AND JUDITH O'DELL, husband and wife,</p> <p>Third Party Plaintiffs,</p> <p>v.</p> <p>KENNETH CASPER, an individual, and FRANCIS BRADY, an individual,</p> <p>Third Party Defendants.</p>

UPON CONSIDERATION of the *Stipulation for Entry of Final Judgment and Consent Order*, and good cause appearing for entry of the relief requested thereby;

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Attached hereto as **Exhibit A** is a true and correct copy of an Avigation Agreement entered into by the parties, or their predecessors in interest, which constitutes a valid and binding agreement by and among the parties. The parties are hereby ordered to abide by and comply the various terms and conditions of the Avigation Agreement.
2. The Avigation Agreement creates a valid, binding and existing easement across the property of Defendants described in said Avigation Agreement, for the benefit of Plaintiff and the members of Plaintiff, and other parties named in the Avigation Agreement. The Avigation Agreement has not been canceled, rescinded or terminated, and remains in full force and effect. The Avigation Agreement, and the easement created thereby, may not be unilaterally revoked by any party.
3. No later than ninety (90) days from entry of this Order, Defendants shall cause the earthen berm located at and along the common boundary between Plaintiff's property and

Defendants' property, at the western end of Plaintiff's runway, to be moved at least one foot west and away from the common property line, and lowered to a height no greater than the existing fence height or thirty (30) inches above the surface of the existing runway, whichever is greater.

4. No later than thirty (30) days from entry of this Order, Defendants shall cause the two poles located on Defendants' property and west of the end of the runway on Plaintiff's property, to be removed and relocated to a point no closer than 125 feet from the extended centerline of the runway located on Plaintiff's property.
5. Along the property boundary between Plaintiff's property and Defendants' property, located on Plaintiff's property and travelling north-south, is a driveway commonly known as Tailspin Lane. Defendants use Tailspin Lane to access their property located north of the runway on Plaintiff's property. Defendants shall take reasonable and appropriate steps to prevent cattle and other livestock from entering the property of Plaintiff from Tailspin Lane.
6. If any of the parties to this action makes application for the amendment of the Elmore County Conditional Use Permit related to Red Baron Airpark and the aircraft operations on Plaintiff's property, then in such event all parties shall support said application as to that part of the application only that seeks to incorporate in said Conditional Use Permit the terms, provisions or limitations of the Aviation Agreement or of this Order.
7. If Defendants fail to comply with paragraph 3 or paragraph 4 of this Order, then in such event the Court shall enter a Supplemental Judgment in the amount of \$10,000.00 payable by Defendants to Plaintiff. If, within six (6) months of entry of this Order,

Plaintiff violates the terms of the Avigation Agreement, then in such event the Court shall enter a Supplemental Judgment in the amount of \$10,000.00 payable by Plaintiff to Defendants.

8. All other claims in this action of Plaintiff against Defendants are hereby dismissed, with prejudice. All other claims in this action of Defendants against Plaintiff are hereby dismissed with prejudice. All claims in this action of Defendants against the Third-Party Defendants are hereby dismissed, with prejudice.

9.

Enforcement of this Order is pursuant to Idaho Rules of Civil Procedure 75, 54 and 60. | Any disobedience of the terms of this Order shall be punishable by contempt, and the disobeying party shall be liable for the attorney fees and court costs of the non-disobeying party in relation to any enforcement and/or contempt proceedings.

10. That the foregoing constitutes the full, final and complete judgment and order of the Court in this action. Neither party is entitled to an award of attorney fees or court costs incurred to-date in this action. The Court accepts the knowing and intelligent waiver by each party of their right to appeal from this Order, this Order having been entered with the full consent of the parties.

IT IS SO ORDERED this 5th day of February, 2013.


Lynn Norton
District Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following on this 5th day of February, 2013 by the following method:

MARCUS K. WARD
403 Blaine Street
Caldwell, Idaho 83605
Telephone: (208) 890-7104
Facsimile: (208) 454-3442
E-Mail: marcoadvise@hotmail.com
Attorneys for Defendants

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Facsimile
- Electronic Mail

DAVID P. CLAIBORNE
SAWTOOTH LAW OFFICES, PLLC
1101 W. River St., Ste. 110
P.O. Box 7985
Boise, Idaho 83707
Telephone: (208) 629-7447
Facsimile: (208) 629-7559
E-Mail: david@sawtoothlaw.com
*Attorneys for Plaintiff, Counterdefendant,
and Third Party Defendants*

- U.S. First Class Mail, Postage Prepaid
- U.S. Certified Mail, Postage Prepaid
- Federal Express
- Hand Delivery
- Facsimile
- Electronic Mail

BARBARA STEELE
Clerk of Court

B/Sealed
Deputy Clerk

RE-RECORDED

Instrument # 393655
Elmore County, Idaho
04:27pm Nov. 30, 2007
For: HALL, FRIEDLY & WARD
No. of Pages: 11 Fee: \$33.00
MARSA GRIMMETT, Recorder
Deputy: DLE

AVIGATION AGREEMENT

This Agreement dated the 20th day of June, 2007 is between and among Judith O'Dell (hereinafter "O'Dell), Richard A. Taylor, Kenneth P. Casper and Sheila M. Casper (Hereinafter collectively called "Caspers").

1. WHEREAS, Caspers are the owners of certain real property located in the County of Elmore, State of Idaho, which is particularly described in Exhibit "A" that is attached hereto and by this reference made a part hereof (Casper property); and
2. WHEREAS, O'Dell is the owner of certain real property located in the County of Elmore, State of Idaho, which is particularly described in Exhibit "B" that is attached hereto and by this reference made a part hereof and designated the "O'Dell Property"; and
3. WHEREAS, a dispute has arisen between O'Dell and the Caspers with respect to the O'Dell property and the overflight of aircraft utilizing an east-west landing strip with runways marked as 10 and 28. This landing strip is located on property wholly owned or to be owned by Caspers; and
4. WHEREAS, the parties wish to address the use of the landing strip which is designed for the use of light aircraft and is located on the Caspers' property and also on property belonging to Dan and Tamara Hennis (hereinafter "Hennis") which will be or has been conveyed to the Caspers; and

Instrument # 390930
Elmore County, Idaho
04:42pm Sep. 06, 2007
For: HALL, FRIEDLY & WARD
No. of Pages: 10 Fee: \$30.00
MARSA GRIMMETT, Recorder
Deputy: DLE

COPY

5. WHEREAS, large storage tanks have been placed on the O'Dell property close to the threshold of the west end of the landing strip and it is the Caspers' position that such tanks impede safe landings on runway 10 and takeoffs on runway 28; and
6. WHEREAS, the parties engaged in mediation with Judge Duff McKee acting as the mediator on the 20th day of April, 2007. At this mediation Richard A. Taylor (hereinafter "Taylor") was present acting as agent for his spouse, O'Dell, with respect to the O'Dell property and expressed an interest in developing a commercial fueling facility for those aircraft utilizing the landing strip; and
7. WHEREAS, the parties have reached an agreement regarding use of the airstrip and surrounding air space which might affect the O'Dell property.

NOW, THEREFORE, the parties agree as follows:

1. The aforesaid landing strip is depicted on Exhibit "C" attached hereto. This landing strip is presently owned by the Caspers and Hennis and Hennis' portion will be conveyed to the Caspers by a separate agreement. The entire runway will then be conveyed by Caspers to the Red Baron Estates Pilots and Homeowners' Association, Inc., (hereinafter "Association") an Idaho corporation formed under the provisions of the Idaho non-profit corporation act.
2. Prior to the conveyance to the Association, the Caspers will purchase certain land from Hennis so that the landing strip is completely owned by the Caspers. The Caspers will then establish a restricted approach, approach

on runway 10, will utilize a left-hand flight pattern so as to minimize or eliminate any flights over the O'Dell property. The final approach for runway 10 will be along or through the corridor described in Exhibit "C" attached hereto so as to avoid flights over the O'Dell property by aircraft landing on runway 10.

3. Similarly, Caspers will, prior to conveyance of the landing strip to the Association, establish that aircraft taking off on runway 28 will either proceed straight ahead on their climbout or will turn to the north before departing the area.
4. Caspers agree to ensure to the maximum extent possible that all Federal Aviation Regulations are observed by all aircraft utilizing the landing strip. In the Caspers' conveyance to the Association, Caspers will ensure that all of the flight restrictions and covenants regarding traffic patterns contained herein will be assumed and adopted by the Association. In particular, the minimum altitudes as set by 14 CFR § 91.119 must, by law, be observed by all pilots utilizing the landing strip.
5. O'Dell and Taylor agree that aircraft utilizing the landing strip may, if minimum FAA altitudes and the above described takeoff and landing patterns are observed, fly over their property and hereby grant an easement permitting such overflights by licensed pilots and aircraft.

6. Caspers will submit for publication in the Federal Airport/Facility Directory for the Northwestern United States all necessary data on the landing strip indicating that utilization of the landing strip is restricted to light aircraft to be defined as aircraft weighing no more than 7,500 pounds gross weight and, further, that the landing strip will have a "restricted" designation which will have the effect of closing the runway to transient aircraft not owned by members of the Association or their invitees; provided, however, that nothing contained herein will indicate that the landing strip will be a certificated airport under 14 CFR, Part 139. Caspers will also request that the landing strip be depicted on aeronautical charts as a private (restricted) designation available only for landmark or emergency purposes to the general public. Caspers will ensure that the above-described weight limitation is assumed and adopted by the Association.
7. Caspers will also establish to the maximum extent possible, prior to their conveyance to the Association, that the landing strip will be closed between one-half hour after sunset and one-half hour before sunrise.
8. The parties grant reciprocal easements to one another across the width of the west end of the landing strip for the purpose of access by aircraft and associated uses to and from a commercial fueling facility for aircraft utilizing the landing strip, to be developed on O'Dell's property in the future. These easements will become effective only when Taylor develops the contemplated fueling station and it is operational.

9. Upon execution of this Agreement, Taylor will remove the storage tanks presently located across the west end of the runway approach area. Both Taylor and O'Dell agree that they will impose no obstructions across the landing strip approach to runway 10.
10. Nothing contained herein will allow any motor vehicles, with the exception of aircraft, to have any access to the landing strip; provided, however, aircraft towing or service vehicles associated with O'Dell's future commercial aircraft fueling facility will be permitted at the west end of the runway only.
11. Casper shall proceed with due diligence to amend the Conditional Use Permit for the landing strip issued by Elmore County to conform to the provisions and limitations of this Agreement.
12. Richard A. Taylor joins his spouse, Judith O'Dell with respect to all of the provisions of this Agreement.
13. Amendment in writing. No provision of this agreement may be modified except by a writing duly executed by the parties hereto. This Agreement is the final expression of the parties' agreements on the subject matter hereof and it may not be supplemented by any extrinsic evidence.
14. The easements granted herein will be vacated if the landing strip is abandoned or its use becomes permanently prohibited by a court having appropriate jurisdiction.
15. Remedies. In the event that either party shall default on any of its agreements herein set forth, the other party shall provide written notice of such. In the event that such claimed default is not cured or disproven within

ten (10) days following the deemed delivery of such notice, the party aggrieved by such claimed default may pursue any remedy available at law or in equity.

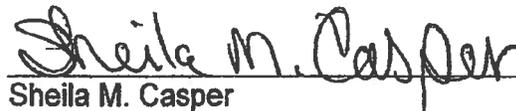
16. Attorney's fees and costs. In the event of any controversy, claim or action being made, filed or instituted to collect sums due as herein provided or to enforce the terms and conditions hereof or arising from the breach of any provision hereof, the prevailing party will be entitled to receive from the other party all costs, damages, and expense, including reasonable attorney fees, incurred by the prevailing party.
17. This Agreement is binding on all heirs, personal representatives, agents, assigns, and successors in interest of the parties signing below.

DATED this ____ day of June, 2007.


Richard A. Taylor


Judith O'Dell

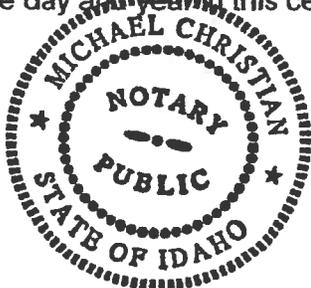

Kenneth P. Casper

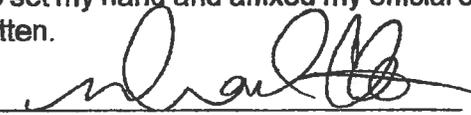

Sheila M. Casper

STATE OF IDAHO)
) ss
County of Elmore)

On this 15th day of June, 2007, before me, the undersigned notary public in and for said state, personally appeared **Richard A. Taylor**, known or identified to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




NOTARY PUBLIC FOR IDAHO
Residing at: Boise
My Commission Expires: 5/22/09

STATE OF IDAHO)
) ss
County of Elmore)

On this 15th day of June, 2007, before me, the undersigned notary public in and for said state, personally appeared **Judith O'Dell**, known or identified to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



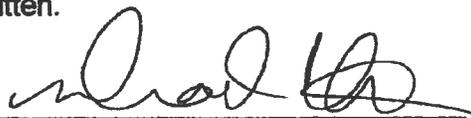

NOTARY PUBLIC FOR IDAHO
Residing at: Boise
My Commission Expires: 5/22/09

EXHIBIT A
TO
AVIGATION AGREEMENT

A parcel of land being a portion of the Southwest Quarter of the Northeast Quarter of Section 30, Township 1 South, Range 5 East, Boise Meridian, Elmore County, Idaho, being more particularly described as follows:

Commencing at the Northeast Section Corner of said Section 30; thence S 00°01'56"W, 2595.18 feet along the Easterly boundary of said Section 30 to the East Quarter Corner of said Section 30; thence N 89°41'30"W, 2673.51 feet along the Center Quarter Corner of said Section 30; thence N 00°13'47" E, 1294.85 feet along said Center Section Line to a point, a Sixteenth Corner; said point being the **REAL POINT OF BEGINNING**;

thence continuing S 62°25'43" E, 989.40 feet to a point;

thence S 45°17'22" W, 94.48 feet to a point;

thence N 62°25'43" W, 914.11 feet to a point on the Center Section Line of said Section 30;

thence N 00°13'47" E, 101.32 feet along said Center Section Line to a point, a Sixteenth Corner, said point being the **REAL POINT OF BEGINNING**.

Said Parcel containing **1.97 Acres**, more or less

EXHIBIT B
TO
AVIGATION AGREEMENT

A parcel of land being a portion of the E1/2 SE1/4 NW1/4 of Section 30, T.1S., R.5E., Boise Meridian, Elmore County, Idaho, said parcel being more particularly described as follows:

Commencing at a found Brass Cap marking the Section Corner common to Sections 19, 20, 29 and 30, T.1S., R.5E., Boise Meridian, Elmore County, Idaho, said Brass Cap bears S.89°48'32"E. 5515.61 feet from a found Brass Cap marking the Section Corner common to said Sections 19, and 30; thence N.89°48'32"W. 2661.62 feet along the north boundary of said Section 30 to a set 5/8" iron pin marking the N1/4 Corner of said Section 30; thence S.00°13'28"W. 1294.71 feet (formerly S.00°13'47"W. 1294.85 feet) along the east boundary of the said NW1/4 of said Section 30 to a found 5/8" iron pin marking the N1/16 Corner of said Section 30; said pin also marking the REAL POINT OF BEGINNING;

thence S.00°13'48"W. 1294.91 feet (formerly S.00°13'47"W. 1294.85 feet) along the east boundary of the said NW1/4 of said Section 30 to a found 5/8" iron pin marking the C1/4 Corner of said Section 30;

thence N.27°01'08"W. 728.57 feet to a set 5/8" iron pin;

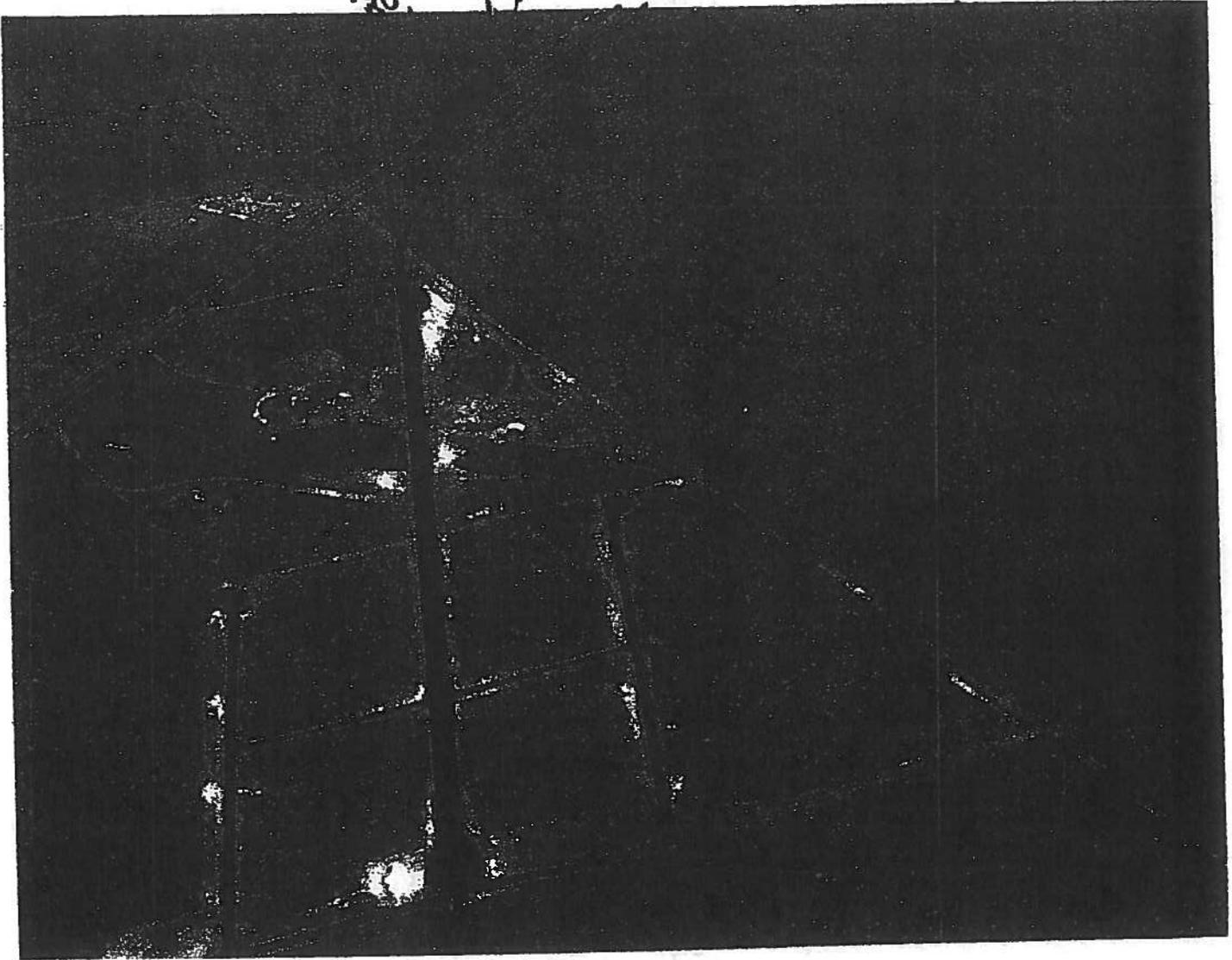
thence N.89°43'29"W. 334.15 feet to a set 5/8" iron pin;

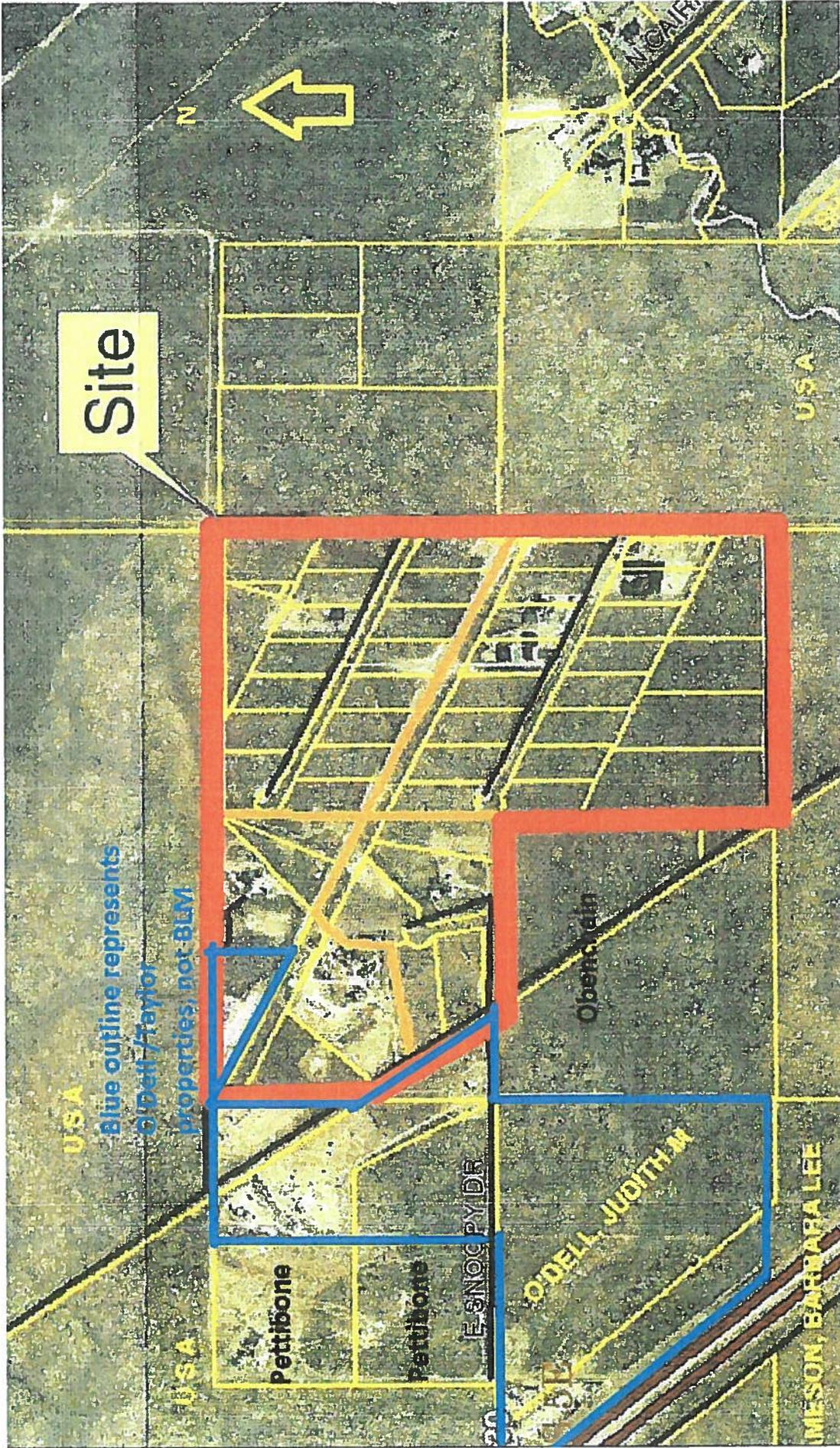
thence N.00°17'47"E. 647.11 feet along the west boundary of the said E1/2 SE1/4 NW1/4 of Section 30 to a set 5/8" iron pin lying along the north boundary of the said E1/2 SE1/4 NW1/4 of Section 30;

thence S.89°45'15"E. 666.98 feet along the said north boundary of the E1/2 SE1/4 NW1/4 of Section 30 to the point of beginning, containing 12.40 acres, more or less.

EXHIBIT C
TO
AVIGATION AGREEMENT

400
15
500





Site

USA
Blue outline represents
O'Neil/Taylor
properties, not BLM

Pettibone

Pettibone

ESNOOPY DR

O'DELL, JUDITH M

OBERTS

IMESON, BARBARA LEE

9-15-2004 P42 Commission was told only BLM land around.

RECEIVED
7-2-14 BSB
Via email

Beth Bresnahan

From: Ron C <ron@castlewoodproducts.com>
Sent: Wednesday, July 02, 2014 1:27 PM
To: Beth Bresnahan
Subject: Red Baron Estates
Attachments: Red Baron_Article IV. Board of Directors_Bylaws.rtf; Red Baron_ SOS_Annual Report 2013.rtf

Beth,

Here is the page from the Bylaws that deals with the duties and the authority of the Board of Directors. Also, a copy from the Secretary of State site shows in good standing and officers at the point it was filed. You can also see if you go to the Secretary of State site that the Red Baron was legally incorporated in 2005. You can also obtain a copy of the Articals of Incorporation if you want from Elmore County Recorders office. They ARE public record.

Rosie Castle

Received on
2/Jul/14 via email
BBB

Section 3.10 Minutes, Presumption of Notice. Minutes or a similar record of the proceedings of meetings, when signed by the President or Secretary, shall be presumed truthfully to evidence the matters set forth therein. A recitation in the minutes of any meeting that notice of the meeting was properly given shall be prima facie evidence that such notice was given.

ARTICLE IV. BOARD OF DIRECTORS

Section 4.1 Number and Qualification. The Property, business and affairs of the Corporation shall be governed and managed by a Board of Directors composed of at least three (3) persons, who need not be Members of the Corporation. Directors shall not receive any salary or other compensation for their services as Directors; provided, however, that nothing herein contained shall be construed to preclude any Director from serving the Corporation in some other capacity and receiving compensation therefor.

Section 4.2 Powers and Duties. The Board of Directors has the powers and duties necessary for the administration of the affairs of the Corporation, as more fully set forth in the Declaration, and may do all such acts and things as are not by law or by these Bylaws directed to be exercised and done exclusively by the Owners; provided, however, that prior to the first annual meeting of the Corporation, the Board of Directors shall not enter into any management service contract for a term in excess of one (1) year without the approval of a Majority of Members, unless such contract contains reasonable provisions for cancellation (such as upon sixty (60) days written notice by the Corporation following one (1) year from the date of commencement of such contract).

Section 4.3 Special Powers and Duties. Without prejudice to such foregoing general powers and duties, and such powers and duties as set forth in the Declaration, the Board of Directors is vested with, and responsible for, the following powers and duties:

(a) To select, appoint and remove all officers, agents, and employees of the Corporation, to prescribe such powers and duties for them as may be consistent with law, with the Articles of Incorporation, the Declaration, and these Bylaws; to fix their compensation and to require from them security for faithful service when deemed advisable by the Board of Directors.

(b) To conduct, manage and control the affairs and business of the Corporation, and to make and enforce such rules and regulations therefor consistent with law, with the Articles of Incorporation, the Declaration, and these Bylaws, as the Board of Directors may deem necessary or advisable.

(c) To change the principal office for the transaction of the business of the Corporation from one location to another within the County of Elmore, State of Idaho, as provided in Article 1 hereof; to designate any place within said County for the holding of any annual or special meeting or meetings of the Corporation consistent with the provisions of Section 3.2 hereof; and to adopt and use a corporation seal and to alter the form of such seal from time to time as the Board of Directors in its sole judgment may deem best, provided that such seal shall at all times comply with the provisions of law.

Received on 2/Jul/14 via email BB Page 1 of 1

No. C 162899

Due no later than Oct 31, 2013

2. Registered Agent and Address (NO PO BOX)

Return to:

Annual Report Form

FRANCIS BRADY
1950 E ACRONCA CT
OASIS ID 83647-5104

SECRETARY OF STATE
700 WEST JEFFERSON
PO BOX 83720
BOISE, ID 83720-0080

1. Mailing Address: Correct in this box if needed.
RED BARON ESTATES PILOTS AND HOMEOWNER'S
ASSOCIATION, INC.
FRANCIS T. BRADY
1950 E AERONCA CT.
OASIS ID 83647-5104

3. New Registered Agent Signature:*

NO FILING FEE IF
RECEIVED BY DUE DATE

4. Corporations: Enter Names and Business Addresses of President, Secretary, and Directors. Treasurer (optional).

Office Held	Name	Street or PO Address	City	State	Country	Postal Code
DIRECTOR	KENNETH P CASPER	1910 E CASPER LN.	OASIS	ID	USA	83647
DIRECTOR	ROBERT HUNTER	15 MORES CREEK CIRCLE	BOISE	ID	USA	83716
PRESIDENT	FRANCIS T BRADY	1950 E AERONCA CT.	OASIS	ID	USA	83647-5104
SECRETARY	ROSIE CASTLE	711 DESERT WIND ROAD	BOISE	ID	USA	83716

5. Organized Under the Laws of: 6. Annual Report must be signed.*

ID
C 162899
Processed 08/08/2013

Signature: Francis T. Brady
Name (type or print): Francis T. Brady

Date: 08/08/2013
Title: President

* Electronically provided signatures are accepted as original Signatures.

received
7-3-14 BB
via USPS

Elmore County Land Use and Building Department
520 East 2nd Street South
Mountain Home, Idaho 83647

Re: CUP-2014-10

To whom it may concern.

My name is Ruth Gyman and I own lot 13 at Red Baron Air Park. I am writing in support of the CUP Amendment change to add "GUESTS". My property value has plummeted and would like to see this area prosper. This change would help sell lots as well as add more tax payers to the County and permit fees. Also, houses that are built on Air Parks are usually nicer homes, paying higher taxes and have better upkeep and curb appeal.

I appreciate your consideration of this amendment.

Sincerely,



Ruth Gyman
10431 Danube Ct.
Stockton, CA 95219

received
7-3-14 BJB

A Brief Historical Overview of the Soles Rest Development and the Oasis Private Airpark.

The initial survey for the Soles Rest Creek (SRC) Development was done in 1998 at the request of Misters Leydet and Perez. Land was sold in 1999 to Mr. Spike Ericson who subsequently built and occupied the first home in the development in Oct. 1999. It was about this time that the Soles Rest Creek Development was formed. In 2001 Rancho Del Sol was platted and became part of the Soles Rest Creek Development.

The Oasis Private Airpark (OPA) was originally conceived by Mr. Dan Hennis in 2000 as a dirt ultralight airstrip 1485 feet in length (Exhibit 1: FAA letter March 13, 2000). I am not certain as to when Mr. Casper became involved in the OPA but FAA records of 5-24-2001 (Exhibit 2) indicate he was a co-owner at this time. The next few years saw a growth of this ultra light dirt strip into what was to ultimately become a 2942 foot paved runway. A letter to the FAA 8-17-2006 (Exhibit 3) from Mr. Hennis showed several changes one of which was for "R/W length of 2875' PAVED BUT NOT APPROVED." When I called the Growth and Development office to get copies of the CUP for the runway expansion I was told there was NEVER any CUP applied for nor granted for a runway of either of these extended lengths or paved. This begs the question as to the legality of the runway. The eastern end of this runway is approximately 1300 feet (not the 1500 feet as noted in Mr. Hennis's letter) from the western boundary of the Soles Rest Creek development which IS NOT contiguous with the Red Baron Estates. Moreover if one were to draw a straight line from the center of this runway it would extend directly over the center of our development. (see map Exhibit 4).

In 2005 portions of the land around the Oasis Private Airpark was reformed and it became the Red Baron Estates and as such was publicly being marketed by Mr. Scott Cryder of Alpha Group Real Estate Service. Mr. Casper and Mr. Hennis were partners in the OPA but I believe only Mr. Casper was involved with the Red Baron Estates. It was at this time that several of the residents of Soles Rest Creek became concerned about the potential for increased air traffic over our homes due to the close proximity of the eastern end of the runway. We had a meeting with Mr. Casper, Mr. Cryder and Mr. Bob Hunter (he had an interest in the Airpark; no residence, just a hangar for his airplane). This meeting was held at our home on North Del Norte Pl. and at this meeting we requested an avigation agreement to require, among other things, landings and departures on this eastern end of the runway bear to the north and NOT straight over our development. We were assured that as soon as they formed a Pilots Association we would be granted an agreement. The association was formed but we were never granted an agreement. Refer also to Exhibit 3, para. 3.

It was in 2005 that I, as Chief of the Oasis Volunteer Fire Department, requested the installation of a static source of water for fire fighting and Mr. Casper said he would do this. It was not done.

In 2006 the runway was paved and a CUP application for Red Baron Estates #4 was filed on 11-6.

In January 2007 a hearing was held for Mr. Casper's CUP request for "Phase 4" of the Red Baron Estates development. At this time the FAA AIRPORT MASTER RECORD dated 1-16-2007 (exhibit 5) still showed this strip to be 1485 feet and dirt. Why this wasn't changed is unknown. At this hearing I again requested fire protection measures (Exhibit 6A) that as a condition of the board's approval of the request Mr. Casper agree to three conditions: Static water source (again), defensible space surrounding the entire airport and subdivision, and some kind of fire fighting vehicle or towable trailer with class B foam capability. Nothing came from this. Mr. Casper later withdrew his application and in a note to me suggested among other things a degree of cooperation but again nothing has come of this (Exhibit 6B p.1) Also attached is an Airport Operations Recommendations dated 1-10-2007 with some of our concerns addressed although not entirely acceptable (Exhibit 6B p.2).

In a personal letter dated 1-9-2007 to the SRCHOA board Mr. Hennis strongly suggested that we secure an avigation agreement as soon as possible before Phase 4 is approved. On April 18, 2007 a request was once again submitted to the OPA for an avigation agreement and it was again denied (Exhibit 7).

On August 20, 2007 Mr. Casper filed for several changes to the OPA with the FAA (Exhibit 8 p.1). This request was for the name to become RED BARON AIRPARK, a PRIVATE AIRPORT* with a 2942" DIRT RUNWAY. It has previously been shown (Exhibit 3) that the runway had already been paved. He also indicated a change in the traffic pattern but I was unable to discover what that entailed. Also attached dated 11-1-2007 is the latest Airport Master Record still showing a dirt runway (exhibit 8 p.2).

*Note on the application he could have chosen "Ultralight Flightpark" but chose "airport."

In 2010 the Soles Rest Creek HOA again submitted a request for an avigation agreement (Exhibit 9) to the RED BARON AIRPARK and without even reading it Mr. Brady told me that they would not sign it.

This past winter while having a conversation with Mr. Brady the subject of avigation agreements came up and I asked why can't we (Soles Rest Creek) get one? His reply was (I am paraphrasing here) "there was no way and we didn't need one." (This can be independently corroborated if necessary).

In light of the above the SRCHOA is holding firm regarding our concerns over the potential for a significant increase in aircraft numbers should this current application for a "single" word change to their existing CUP be granted. In their application both "guest" AND "guests" appear. There is a vast difference between the singular and plural when one is referring to aircraft. "GUEST" would indicate

one additional aircraft per property whereas "GUESTS" could mean any number and potentially allow hundreds of aircraft into the airspace. The Soles Rest Creek HOA Board feels this needs to be firmly clarified and if indeed the word is plural what limit(s) would be imposed? Referring to an amended staff report dated 4-15-10 (Exhibit 10 pp. 3-5 #10 forward), the opinion in #10 expresses concern for "...potential to be detrimental to neighboring properties with excessive noise. This proposed amendment will increase the amount of traffic and noise, staff is unsure if it will be excessive." This uncertainty is enough to tread carefully here. Further on the same page (p. 4) Staff outlines several concerns concerning the number of "invitees" and a proposed limit of three may be too many.

Referring to item 22.G (Exhibit 11 p. 1) from RED BARON's current CUP application and their response (j p.2) does not address the issue of "hazardous or disturbing." We feel this potential increase in aircraft numbers WOULD increase the possibilities for accidents and WOULD be increasingly disturbing to existing neighbors! Soles Rest Creek development was here before the extension of this "non-approved by the county"? runway which brought it within 1300' of our homes.

In their application (Exhibit 12) reference is made to lifestyle of the area. "...traffic all day long up and down Desert Wind Rd. motorcycles, lines of them...semi training trucks all the time...loaders, tractors, cement trucks...road graders grading roads...farmers plowing...animals of all shapes, sizes and species...construction people up and down the roads throughout the immediate area on a continual basis..." Now this may be normal and acceptable for someone living ON Desert Wind Road but it is NOT normal for our community of Soles Rest Creek! Nor is it acceptable! Yes, we have occasional noises as do most neighborhoods, but to suggest that all the above mentioned noise and commotion is a normal and continual part of OUR lifestyle is simply not accurate. Apparently the Red Baron folks consider this noise to be equal to aircraft noises? And are we to assume that this "noise" is no different from aircraft flying 80 feet above our houses as is currently allowed by the county? We can't imagine trucks, road graders, motorcycles, etc. going over our houses at 80 feet! Consequently, the Soles Rest Creek HOA Board feels that based on this allowable EXCESSIVELY LOW, 80 FOOT altitude provision the only choice we have is to keep aircraft out of the airspace above our homes. We have no desire to grant an easement to allow aircraft incursions above our homes.

Referring again to the map (Exhibit 4) an aircraft taking off or landing could avoid flying over our development by bearing 30 degrees to the north. That would take it just outside the NW corner. This would be acceptable to us and numbers would not be an issue.

Submitted for your review is a RED BARON AIRPARK operations information sheet (Exhibit 13). I cannot date this material but referring to the section on aircraft pattern operations Landing R/W 28 and Departing R/W 10, this is not that far off of what we are asking of Red Baron. In fact, these are some of the very things we have been asking for in our agreement. We just need to have it in writing because there have been too many promises not kept.

The SRCHOA board wants to assure the residents of RED BARON ESTATES that we are NOT anti airplanes. Many of our residents are active, past or retired military and have been around aircraft for many years. We merely want to preserve the tranquility we currently enjoy which was one of the main factors in our moving here. The SRCHOA board has agreed, then, to consider a compromise in this issue. If the Red Baron Estates Pilots and Homeowners Association would grant us the avigation agreement we have been seeking for the last ten years, specifically the "no fly straight out or in on over our development, we would withdraw our opposition to the insertion of the word "guest." However, if the word is indeed "guests," and the board will not raise the minimum altitude over our homes and direct flyovers are permitted, we are AGAINST THIS CUP! It is our peace and quiet that is at stake here. All we are asking of the Red Baron Estates Pilots and Homeowners Association is consideration for us, their neighbors.

Thank you very much for your attention in this matter.

Respectfully submitted on behalf of the Soles Rest Creek HOA board.

Bob Ruth

19550 N. Del Norte Pl., Oasis 83647



U.S. Department
of Transportation

Federal Aviation
Administration

March 13, 2000

Mr. and Mrs. Daniel M. Hennis
8050 North Old Highway 30
Mountain Home, ID 83647

Dear Mr. Hennis:

We have studied your Notice of Landing Area Proposal, Federal Aviation Administration (FAA) Form 7480-1, dated December 20, 1999. An aeronautical study has been conducted to establish a private use ultralight flightpark, to be called Oasis, in Mountain Home, Idaho, at latitude $43^{\circ} 18' 38''\text{N}$ and longitude $115^{\circ} 54' 09''\text{W}$ (NAD 1927).

The results of Aeronautical Study 00-SEA-027-NRA indicate that the proposal would not be contrary to the safe and efficient use of navigable airspace. Therefore, we have no objection to the establishment of the flightpark.

This airspace determination is only a determination with respect to the safe and efficient use of airspace by aircraft. In making this determination, the FAA has considered matters such as the effect the proposal would have on existing or contemplated traffic patterns of neighboring airports, the effects it would have on the existing airspace structure and projected programs of the FAA, and the effects that existing or proposed man-made objects (on file with the FAA) and natural objects within the affected area would have on the airport proposal. This determination in no way preempts or waives any ordinance, laws, or regulations of any other governmental body or agency.

No evaluation of the environmental aspects of your proposal has been made, therefore, this determination does not constitute environmental approval under the National Environmental Policy Act of 1969.

You should be aware that the FAA cannot prevent the construction of a structure near the airport. The airport environs can only be protected through such means as local zoning ordinances or acquisition of property rights.

Northwest Mountain Region
Colorado, Idaho, Montana
Oregon, Utah, Washington,
Wyoming

Seattle Airports District Office
1601 Lind Avenue, S. W., Ste 250
Renton, Washington 98055-4055

We recommend that the proposal be developed per established airport design standards. For this purpose, the FAA has prepared a useful and interesting handbook entitled "Airport Design", Advisory Circular 150/5300-13. Chapter 2 of this publication is enclosed.

When the proposal becomes operational, please complete and return the enclosed FAA Form 5010-5, "Airport Master Record", which is pre-addressed for your convenience. The enclosed "Appendix 1, Description and Instruction for Each Data Element" is provided for your use in completing this form. If the proposal does not become operational and/or the FAA Form 5010-5 is not submitted by June 30, 2001, this airspace determination will expire. A time extension may be requested, but its issuance will be dependent upon a review of aeronautical activity in the area.

Thank you for your cooperation in resubmitting this proposal. If you have any questions, please call me at (425) 227-2656.

Sincerely,

Sandra M. Simmons

Sandra M. Simmons, P.E.
Civil Engineer, Oregon/Idaho Section

cc:

Northwest Public Power Association
Idaho State Aeronautics (w/7480-1 and map)
Boise Flight Standards District Office
AAS-330 (w/7480-1, map, and 5010)
ANM-900 (w/7480-1 and map)
ANM-902 (w/7480-1 and map)
AWP-930 (w/7480-1 and map)

NOTICE OF LANDING AREA PROPOSAL

00 SEA-027-NRA

Proponent, Individual or Organization: **DAN AND TAMARA HENNIS**
 Address of Proponent, Individual or Organization (No., Street, City, State, Zip Code): **8050 NORTH OLD HIGHWAY 30 Mtn. Home, IDAHO 83647**
 Date: **DEC 27 1999**

Establishment or Activation Deactivation or Abandonment OF Airport Ultralight Flightpark Vertiport
 Alteration Change of Status Heliport Seaplane Base Other (Specify) **TEST FACILITY**

Location of Landing Area: **1927 NORTH AMERICAN DATUM**
 Associated City/State: **MOUNTAIN HOME, IDAHO**
 Name of Landing Area: **OASIS**
 2. County/State (Physical Location of Airport): **ELMORE/IDAHO (OASIS AREA)**
 3. Distance and Direction From Associated City or Town: **23 Miles North West**
 5. Latitude: **N 115° 54' 09"** 6. Longitude: **W 143° 18' 38"** 7. Elevation: **3260**

Purpose: **Private (ULTRA LIGHT) RESTRICTED**
 If Change of Status or Alteration, Describe Change: **1927 DATUM**
 Establishment or change to traffic pattern (Describe on reverse):
 Construction Dates: To Begin/Began **JAN. 2000** Est. Completion **JUN. 2001**

Other Landing Areas	Ref. A5 Above		D. Landing Area Data			Existing (if any)			Proposed		
	Direction From Landing Area	Distance From Landing Area	1. Magnetic Bearing of Runway(s) or Seaplane(s)	Rwy #1	Rwy #2	Rwy #3	Rwy	Rwy	Rwy		
MOUNTAIN HOME MUNI.	325°	13 Mi.	101 281								
MOUNTAIN HOME AFB	358°	16 Mi.	1485 1485								
MITH- PRAIRIE	235°	18 Mi.	50 50								
BOISE - GOWEN MUNI/FLD	136°	21 Mi.	Diag								
WINE	250°	27 Mi.	Diag								
MURPHY	080°	36 Mi.	Turf								

E. Obstructions: **2 WASTE OIL TANK (MIS-MARKED AS WATER TANKS)**
 Type: **WASTE OIL TANK** Height Above Landing Area: **16'** Direction From Landing Area: **280°** Distance From Landing Area: **300'**
 3. All: **DESCRIPTION OF LIGHTING (if any): NONE FOR PHASE I** Direction of Prevailing Wind: **NW/SE**

F. Operational Data

1. Estimated or Actual Number Based Aircraft					
Airport Flightpark, Seaplane base	Present (if est. indicate by letter "E")	Anticipated 5 Years Hence	Heliport	Present (if est. indicate by letter "E")	Anticipated 5 Years Hence
Multi-Engine			Under 3500 lbs. MGW		
Single-engine	-1-	50	Over 3500 lbs. MGW		
Glider	0	-2-			

G. Other Considerations

Identification	Direction From Landing Area	Distance From Landing Area	2. Average Number Monthly Landings			
			Present (if est. indicate by letter "E")	Anticipated 5 Years Hence	Present (if est. indicate by letter "E")	Anticipated 5 Years Hence
Jet			0	0	0	-1-
Turboprop			0	0	0	200
Prop			-1-	100	0	20

3. Are IFR Procedures For The Airport Anticipated: No Yes Within _____ Years Type Navaid: _____

H. Application for Airport Licensing: Has Been Made Not Required County Will Be Made State Municipal Authority

I. CERTIFICATION: I hereby certify that all of the above statements made by me are true and complete to the best of my knowledge.
 Name, title (and address if different than above) of person filing this notice—type or print: **DANIEL M. HENNIS**
 Signature (in ink): *[Signature]*
 Date of Signature: **3 20 DEC 99**
 Telephone No. (Precede with area code): **(208) 796-2797**

> 1 ASSOC CITY: OASIS 4 STATE: ID LOC ID: 11D4 FAA SITE NR: 04277.6°U
 > 2 AIRPORT NAME: OASIS STRIP 5 COUNTY: ELMORE ID
 3 CBD TO AIRPORT (NM): 23 NW 6 REGION/ADO: ANM/SEA 7 SECT AERO CHT: SALT LAKE CITY

(-) ARPT MGR PLEASE ADVISE FSS IN ITEM 86 WHEN CHANGES OCCUR TO ITEMS PRECEDED BY >

GENERAL		SERVICES	BASED AIRCRAFT
> 10 OWNERSHIP:	PRIVATE	> 70 FUEL:	90 SINGLE ENG: 2
> 11 OWNER:	D & T HENNIS & K & S CASPER		91 MULTI ENG: 0
> 12 ADDRESS:	3555 N. 18TH EAST		92 JET: 0
	MTN HOME, ID 83647		TOTAL: 2
> 13 PHONE NR:	208-587-5241		93 HELICOPTERS: 0
> 14 MANAGER:	DAN HENNIS/KEN CASPER		94 GLIDERS: 0
> 15 ADDRESS:	2792 DESERT WIND RD		95 MILITARY: 0
	MTN HOME, ID 83647		96 ULTRA-LIGHT: 1
> 16 PHONE NR:	208-796-2747		
> 17 ATTENDANCE SCHEDULE:			
MONTHS	DAYS	HOURS	
UNATNDD			
		FACILITIES	
16 AIRPORT USE:	PRIVATE	> 80 ARPT BCN:	
19 ARPT LAT:	43-18-38.0000N ESTIMATED	> 81 ARPT LGT SKED:	
20 ARPT LONG:	115-54-09.0000W	> 82 UNICOM: 122.725	
21 ARPT ELEV:	3259 ESTIMATED	> 83 WIND INDICATOR: YES-L	
22 ACREAGE:	3	84 SEGMENTED CIRCLE: NONE	
> 23 RIGHT TRAFFIC:	NO	85 CONTROL TWR: NONE	
> 24 NON-COMM LANDING:		86 FSS: BOISE	
		87 FSS ON ARPT:	
		88 FSS PHONE NR: 208-332-0200	
		89 TOLL FREE NR: 1-800-WX-BRIEF	

2

RUNWAY DATA	
30 RUNWAY IDENT:	10/28
31 LENGTH:	1,485
32 WIDTH:	50
33 SURF TYPE-COND:	DIRT-G
LIGHTING/APCH AIDS	
40 EDGE INTENSITY:	- / -
42 RWY MARK TYPE-COND:	
OBSTRUCTION DATA	
50 FAR 77 CATEGORY:	A(V) / A(V)
> 51 DISPLACED THR:	/
> 52 CTLG OBSTN:	TANK /
> 53 OBSTN MARKED/LGTD:	/
> 54 HGT ABOVE RWY END:	16 /
> 55 DIST FROM RWY END:	300 /

> 110 REMARKS:

111 OWNER/MANAGER SIGNATURE: (N) 113 DATE: 05/24/2001

Dan M. Hennis

From: Dan M. Hennis [D.M.Hennis@worldnet.att.net]
Sent: Thursday, August 17, 2006 12:14 PM
To: 'bev.newkirk@faa.gov'
Cc: 'tlhennis@micron.com'; 'packrat1956@msn.com'; 'Michael Christian'; 'Jarice Halsted'
Subject: OPA Update and follow-up for FAA Records



Good Morning Bev,
 Per our conversation this morning, here are the changes we discussed by line number. Please make the changes or corrections as noted and let me know if there are any problems. Please note I included some extra information to help figure out what we really have.

As discussed, we can keep Ken in the "Owner" position. However, it would be nice if it could be additionally annotated as "Co-Owner", and keep me as the "Manager" and annotate as "Co-Manager".

On item #31 R/W length, There are some administrative things we are working out with the County Planning & Zoning office. There is a concern with the no-build zone on the East end. There is a subdivision, Soles Rest Development on that approach end that is just under 1500 feet from the EAR/E. The residents have made their concerns known, and Mr. Casper is working on an Avigation agreement with them as reported by Mr. Cryder his realtor/pilot advisor.

Also as discussed, the mission of the runway is changing. Although Ultralights are still mandated by contract to maintain full rights to operate to / from the facility, Mr. Casper is claiming to have sold a number of lots to large, high-performance light planes such as Beech Bonanzas, Cessna 210s, etc. I believe such would require a re-evaluation of the facility and annotations on the Master Record that the facility catered to both categories of aircraft. Please consult with your people and advise us as to the outcome. I am CCing the local U/L association and some other interested parties.

#2- Oasis Private Airpark

12- 2844 Desert Wind Road, Oasis Idaho 83647
 13- (208) 796-2844
 14- Dan Hennis
 15- 1811 Tailspin Ln., Oasis Idaho 83647-5871

19- Long. EOR/West- 115° 53' 47.2" EOT/West- 115° 54' 21.8" Displaced THR/ West-150'
 Long. EOR/East- 115° 53' 36.8" EOT/East- 115° 53' 50.3" Displaced THR/ East-220'

20- Lat. EOR/W- 43° 18' 26.7" EOT/West- 43° 18' 40.8"
 EOR/E- 43° 25' 38.2" EOT/East- 43° 18' 28.7"

21- 3269' (surveyed) (3267'-East end, 3270'-West end)

30- 10/28 (101°/281°)
 31- 1485' (2944'surveyed, 2875' paved but not approved, 2574' between thresholds, not approved/pending County approval)
 32- 47' (some portions 50') non-standard surface
 33- paved, asphalt (non-standard surface)

42- Non-standard markings, both ends

1/27/2007

/

Dan M. Hennis

From: Dan M. Hennis [D.M.Hennis@worldnet.att.net]
Sent: Tuesday, January 16, 2007 12:43 PM
To: 'Bev.Newkirk@faa.gov'
Cc: 'Michael Christian'
Subject: RE: Oasis Strip Master Record

Bev,

Thank you for the information. However, the Airport Master Record was changed to reflect the current errors, WITHOUT MY PERMISSION! I respectfully request the original record be restored until this is resolved. Mr. Casper had no right to add any information, including the contact information, surface type, managerial contact, etc. If necessary, please suspend this Record until this is corrected. I do not wish to be a part of any unlawful or unsafe act. Thank you for all you do for the well-being of the public. I applaud your devotion. Please forward the appropriate information and documentation to Mr. Casper. Currently, there is a suit between us that precludes us from having a meaningful or productive solution. In an effort to see this thing through to a positive and safe conclusion, I am CCing my legal council to keep him informed of pending FAA actions. Thanks again.

Respectfully
Dan M. Hennis

-----Original Message-----

From: Bev.Newkirk@faa.gov [mailto:Bev.Newkirk@faa.gov]
Sent: Tuesday, January 16, 2007 12:16 PM
To: d.m.hennis@att.net
Subject: Oasis Strip Master Record

Dan,

I sent your information into Headquarters when you sent the changes to me and this is the comment that I received from the person in charge of the airport safety data:

In the case where an airport has more than one owner, I will process airport data changes only if I am provided with an Airport Master Record or a document, such as a written letter, that is signed and dated by both owners, such that both owners mutually agree with any and all changes.

I will write a letter to you and Ken with the changes that you requested and request signatures. Or, you can approach him with the changes and have him sign. Please let me know which way you prefer.

Attached is the scanned copy of your Airport Master Record which you requested.

Bev

(See attached file: SADOPIER_LDAP_SMTP_01162007-102547.pdf)

Bev Newkirk
Airports Program Specialist
SEA-ADO
425-227-2641

--
Internal Virus Database is out-of-date.

Legend

	Townships
	Railroads
	County Parcels

Zoning Zone

- ABCZ
- ABHZ
- AG
- C2
- CITY
- M1
- M2
- PC-MT
- R

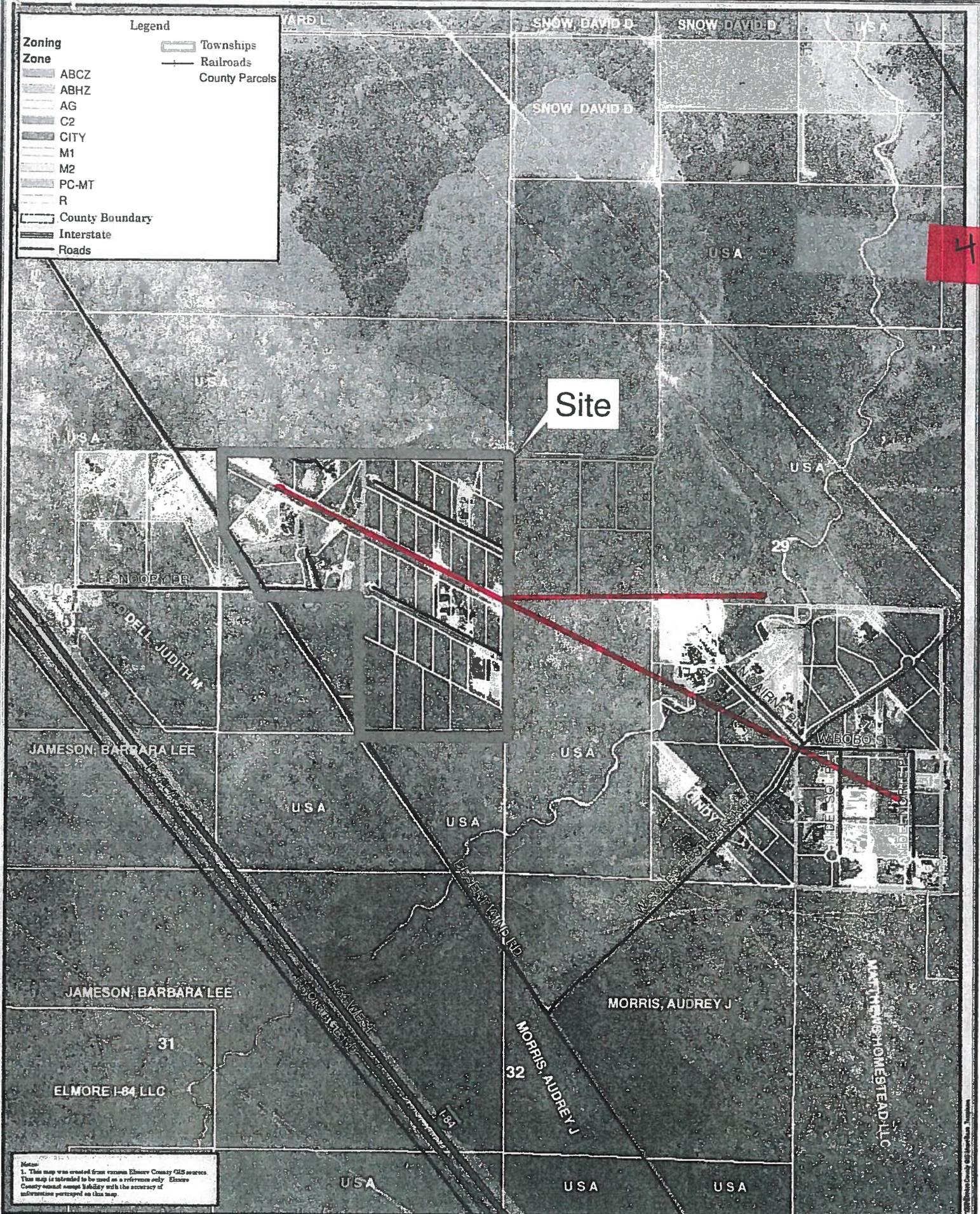
County Boundary

Interstate

Roads

4

Site



CUP-2014-10





AIRPORT MASTER RECORD

> 1 ASSOC CITY: OASIS 4 STATE: ID LOC ID: 1D4 FAA SITE NR: 04277.6*U
 > 2 AIRPORT NAME: OASIS STRIP 5 COUNTY: ELMORE ID
 3 CBD TO AIRPORT (NM): 23 NW 6 REGION/ADO: ANW/SEA 7 SECT AERO CHT: SALT LAKE CITY

GENERAL		SERVICES	BASED AIRCRAFT
10 OWNERSHIP:	PRIVATE	70 FUEL:	90 SINGLE ENG: 2
11 OWNER:	D & T HENNIS & K & S CASPER		91 MULTI ENG:
12 ADDRESS:	3555 N. 18TH EAST		92 JET:
	MTN HOME, ID 83847		TOTAL: 2
13 PHONE NR:	208-587-5241		93 HELICOPTERS:
14 MANAGER:	DAN HENNIS/KEN CASPER		94 GLIDERS:
15 ADDRESS:	2792 DESERT WIND RD		95 MILITARY:
	MTN HOME, ID 83847		96 ULTRA-LIGHT: 1
> 16 PHONE NR:	208-796-2747		

ATTENDANCE SCHEDULE			FACILITIES	
MONTHS	DAYS	HOURS		
UNATNDD			80 ARPT BCN:	
			81 ARPT LGT SKED:	
			82 UNICOM:	122.725
18 AIRPORT USE:	PRIVATE		83 WIND INDICATOR:	YES
19 ARPT LAT:	43-18-38.0000N ESTIMATED		84 SEGMENTED CIRCLE:	NONE
20 ARPT LONG:	115-54-09.0000W		85 CONTROL TWR:	NONE
21 ARPT ELEV:	3259 ESTIMATED		86 FSS:	BOISE
22 ACREAGE:	3		87 FSS ON ARPT:	
> 23 RIGHT TRAFFIC:	NO		88 FSS PHONE NR:	208-332-0200
> 24 NON-COMM LANDING:			89 TOLL FREE NR:	1-800-WX-BRIEF

RUNWAY DATA
 > 30 RUNWAY IDENT:
 > 31 LENGTH:
 > 32 WIDTH:
 > 33 SURF TYPE-COND:

10/28
1,485
50
DIRT-G

- J -

A(V) / A(V)
/
TANK /
/
16 /
300 /

LIGHTING/APCH AIDS
 > 40 EDGE INTENSITY:
 > 42 RWY MARK TYPE-COND:

OBSTRUCTION DATA
 50 FAR 77 CATEGORY:
 51 DISPLACED THR:
 52 CTLG OBSTN:
 53 OBSTN MARKED/LGTD:
 54 HGT ABOVE RWY END:
 55 DIST FROM RWY END:

> ARPT MGR PLEASE ADVISE FSS IN ITEM 86 WHEN CHANGES OCCUR TO ITEMS PRECEDED BY >

110 REMARKS:

111 INSPECTOR: (N) 112 LAST INSP: 113 LAST INFO REQ: 05/24/2001



Oasis Volunteer Fire Department

"A haven from the fire around us."

19550 N. Del Norte Pl. Oasis, ID 83647

(208) 796-2236

(208) 796-2115

January 17, 2007

Elmore County Growth and Development Office
Planning and Zoning Department
520 E 2nd South St.
Mountain Home, Idaho 83647

RE: Casper 12 lot Platted Subdivision AKA Red Baron Estates No. 4

This department has several concerns with what we see is a growing residential area in and around an airport facility. There have not been any provisions for present or future fire protection and hazard mitigation incorporated into this complex as of this time. Therefore, we would like to see the following conditions set by this board prior to granting a conditional use permit for this latest phase of the development.

First, as per the standard set by the Mountain Home rural fire district on water supply, this department asks that said developer install a 10,000 gallon water tank for fire protection within the boundaries of this 12 lot plat. This tank may be above or below ground and will be provided with a hydrant with a minimum of one 6 inch male outlet and two 2 ½ inch male outlets with national standard thread. Further, it shall be the responsibility of the subdivision to maintain this fire fighting water system and its components in an operational condition at all times to include keeping the tank full.

Second, we ask that a minimum 30 foot, preferably 50 foot, defensible space accessible by fire vehicles be constructed on the outer perimeter of this plat and maintained by the subdivision in the event of a wild land fire.

We would further ask that all interior landscaping be done in accordance with acceptable "fire wise community standards."

Third, since this is being marketed as "air park" one can assume that most if not all residents will have an aircraft of some type. There exists then, at this time, the possibility that there may be as many as 48 aircraft housed within the entire development as currently proposed. There have not been any plans submitted, to our knowledge, for hazard mitigation of fuels, oils, combustible metals or aircraft accidents other than the original CUP of 2004 which allowed for the storage of 500 gallons of fuel on the original plat. Therefore, we ask that conditions be set by this board to establish said guidelines and restrictions to address these problems. This wild land fire department does not have the capability to deal with these types of situations and to allow this to go unchecked would be doing a disservice to its residents. We further request that said developer purchase and maintain a fire fighting vehicle of sufficient capability to deal with an event should one occur.

We thank you for your attention in these matters and look forward to your favorable decisions.

Respectfully,

Bob Ruth, Fire Chief
Oasis Volunteer Fire Department

Bob Ruth

I have decided that the concerns of Soles Rest Creek should be taken into account, and have decided not to have the 12 lots that I applied for at the planning and zoning meeting the use of the runway at this time. Then we can see more fully the impact of this subdivision. I do not believe it will be much.

About the notice of the landing area proposal; this is a copy given to me by the FAA. In order to record the proposal, it will take a signature from Mr. Hennis. If you could get Mr. Hennis's signature on this plan, the planes will be starting to turning just short of Soles Rest Creek. At any rate, the pilots are not to be flying over Soles Rest Creek subdivision at any height lower than 80 feet. They are supposed to go out at the best rate of climb to 1000 feet. Now I am not a pilot, but I got this from Scott Cryder, who is an owner and pilot in Red Baron Estates. I was hoping to get more people living here and I will turn the whole matter over to them in the Pilots association. It has been slower than I thought. When we get it handed over to the people we will only be dealing with the owners and their guests of which the owners are responsible for the own guests.

Thank you for your patience.

60

OASIS AIRPORT (11D4)

Initial Airport Operations Recommendations

CATIF: 122.75 Announce approach three miles out, all pattern turns, final and all ground operations.

CALM WIND RUNWAY: 28

TRAFFIC PATTERN ALTITUDE: 4000 MSL (Approx. 800 feet AGL)

NO LOW PASS WITHIN PATTERN

Landing 10: Left Traffic - No straight in final

Departing 10: Noise abatement procedures. Early South bound turnout. Avoid climb out over homes.

Landing 28: Left Traffic - No straight in final

Departing 28: Avoid early South bound turnout

Wind Sock: SW side of field

From: Mr. Richard A. Taylor, Ms. Judith M. O'Dell 18 April, 2007
Bob Ruth, OVFD Fire Chief
Monty McConnell, Pres Soles Rest Development Pres.

Sub: Avigation Agreement

To: Mr. Kenneth P. Casper & Mr. Daniel M. Hennis
Owners of the Oasis Private Airpark (OPA)
Oasis, Elmore County, Idaho,

Mr. Casper and Mr. Hennis,

The following is a draft outline of minimum requirements for Avigation Easement Agreement over our properties. As community minded neighbors we all see the value of a harmonious and well planned airpark facility in our area.

Be it known here in, the residents and property owners of the Western bordering properties, Soles Rest Creek Planned Community Development, and the OVFD, demand and are entitled to, the Oasis Private Airpark and Red Baron Estates Subdivision enter into an Avigation Agreement & Airport Operations Agreement, to protect both the surrounding property owner's rights, including the developing Red Baron Estates / Oasis Private Airpark, (OPA) areas.



in so doing, we retain all rights, powers, and privileges to our property and to seek legal aid in the administration and enforcement of this Avigation Agreement Easement, and Airport Operations Agreement. We/I agree to allow over-flights of our property, Soles Rest Development, and the general community of Oasis provided such flights are executed from the Northern side of the Primary Runway Surface and can be done in a safe manner, and in compliance to FAA Regulation, (FAR) Part 1(turp), Part 91.119, AC-150-5300-13, Chapter 2, IDOT Division of Aeronautics, (IDOT/DA) Chapter 201, and the additional stipulations of any Elmore County FCOs attached to the airpark development at any given time.

As a part of this agreement, any and all individuals or organizations conducting the operations and maintenance of the airstrip and associated facilities, either in part or in its entirety, shall hold public hearing and get written permission from all property owners of the adjoining Western end of the runway, Soles Rest Planned Community Development, Oasis Volunteer Fire Department, Elmore County Growth & Development, Bureau of Land Management, IDOT/DA, FAA Division of Airports, **prior to any reduction, addition, or change in mission and use of the airstrip.** We/I agree this Avigation Agreement Easement and Airport Operations Agreement shall be used as a tool along with an IDOT/DA approved Airport Master Plan, to maintain minimum and maximum tolerances for over-flight elevation, frequency of use, category of use, size of aircraft allowed, noise abatement, flight patterns, and general aerial operations over the Oasis Community

Enumerated herein

1) No over-flights of any structure less than 1,000 feet above ground level (AGL) per FAR Part 91.119, with the only exception being a bonafided, FAA reported in-flight emergency, (IFE).

2) The Elmore County imposed Conditional Use Permit(s), (C U P.s) shall be strictly adhered to including no over-flights of any residence at less than 1,000 feet within the Community and Fire Protection District of Oasis.

- 3) No After dark or inclement weather operations, to include quiet hours (no flights or engine operations) from 9:00 PM to 07:00 AM.
- 4) No Instrument (IFR), or flight training operations will be allowed.
- 5) No Aviation related commercial sales, rentals, or FAR Part 135 ventures or activities of any kind, unless appropriate application has been made and approved by Elmore County and the OVFD.
- 6) No regular non-resident landing permits will be allowed, I.E. "associate memberships".
- 7) No solicited (advertised) air shows, fly-ins, or similar activities without prior written permission from Elmore County Growth & Development and filed FAA permit from the local FSDO office.
- 8) No aircraft larger than 4 passengers, landing weight of 7,500 lbs, or powered by jet or turbine shall be allowed, excluding helicopters, Life-Flight, search & rescue and firefighting operations, unless properly and individually waived in writing by all effected individuals or agencies.
- 9) Airport Master Plan will be reviewed and updated bi-annually, and submitted to as a minimum, Soles Rest Planned Community Development, Oasis Volunteer Fire Department, Elmore County Growth & Development, and the IDOT/DA.
- 10) Advertisement of these agreements, County C U.P. Stipulations, shall be published in the following places; local FAA/FSDO office, FAA/ Flight Service Station (FSS), Experimental Aircraft Association (EAA), and two (2) Nationally recognized periodicals (such as Air Progress and Plane & Pilot), including all property owners or residents of the OPA and the Red Baron Estates Development.
- 11) Enforcement of non-compliance may be initiated by any resident-witness to said violation and in conjunction with the Elmore County Sheriff, to include up to, temporary closure of the entire aviation facilities for periods of up to 30 days per guidelines of FAA regulations and FAA/ACs for closure. **Contact Noe Garza at: 587-2142, ext-283**
- 12) Any safety or perceived safety deficiencies may be grounds for immediate closure of the Aviation related activities, and shall be initiated by any member of the Oasis Community and in conjunction with the local FAA/FSDO office. **Contact FAA: 387-4000**

In the interest of all, a deadline of 30 May 2007 shall be imposed to facilitate swift and peaceful resolution of this action. After that date, any and all appropriate action shall be initiated to permanently close the runway in the interest of the Community.

Signed,

4-18-07

Richard A. Taylor
Mr. Richard A. Taylor

Ms. Judith M. O'Dell 4-18-07
Ms. Judith M. O'Dell

4-18-07

Bob Ruth
Bob Ruth, OVFD Fire Chief

R. Monte McConnell
R. Monte McConnell, Pres. Soles Rest Development Pres.

CC: Elmore County Offices
Boise Idaho FAA/FSDO

8

NOTICE OF LANDING AREA PROPOSAL											
U.S. Department of Transportation Federal Aviation Administration					NOTICE OF LANDING AREA PROPOSAL						
Name of Proponent, Individual, or Organization KENNETH P. CASPER					Address of Proponent, Individual, or Organization (No., Street, City, State, Zip Code) 1910 E. CASPER LANE OASIS, IDAHO 83647						
<input type="checkbox"/> Check if the property owner's name and address are different than above, and list property owner's name and address on the reverse.											
<input type="checkbox"/> Establishment or Activation <input checked="" type="checkbox"/> Alteration		<input type="checkbox"/> Deactivation or abandonment <input type="checkbox"/> Change of Status		} OF		<input checked="" type="checkbox"/> Airport <input type="checkbox"/> Heliport		<input type="checkbox"/> Ultralight Flightpark <input type="checkbox"/> Seaplane Base		<input type="checkbox"/> Vertiport <input type="checkbox"/> Other (Specify)	
A. Location of Landing Area											
1. Associated City/State MOUNTAIN HOME, IDAHO			2. County/State (Physical Location of Airport) ELMORE, IDAHO				3. Distance and Direction From Associated City or Town 23 Miles NORTH				
4. Name of Landing Area RED BARON AIRPARK			5. Latitude 43 ° 18 ' 34.94 N		6. Longitude 115 ° 54 ' 05.57 W		7. Elevation 3269				
B. Purpose											
Type Use <input type="checkbox"/> Public <input checked="" type="checkbox"/> Private <input type="checkbox"/> Private Use of Public Land/Waters		If Change of Status or Alteration, Describe Change NAME CHANGE TO RED BARON AIRPARK OWNER KENNETH P CASPER, MANAGER KENNETH CASPER LIST AS PRIVATE RESTRICTED.				<input checked="" type="checkbox"/> Establishment or change to traffic pattern (Describe on reverse)		Construction Dates To Begin/Began: 8/1/1999 Est. Completion: JULY 2005			
C. Other Landing Areas											
		Ref. A5 above		D. Landing Area Data			Existing (if any)			Proposed	
		Direction From Landing Area		Distance From Landing Area		1. Airport, Seaplane Base, or Flightpark Magnetic Bearing of Runway (s) or Seaplane			Rwy #1 Rwy #2 Rwy #3 Rwy Rwy Rwy		
						Length of Runway (s) or Seaplane (s) in Feet			10/28 2942		
						Width of Runway (s) or Seaplane (s) in Feet			50		
						Type of Runway Surface (Concrete, Asphalt, Turf, Etc.)			DIRT PAVE		
						2. Heliport Dimensions of Final Approach and Take off Area (FATO) in Feet					
						Dimensions of Touchdown and Lift-Off Area (TLOF) in Feet					
						Magnetic Direction of Ingress/Egress					
						Routes					
						Type of Surface (Turf, concrete, rooftop, etc.)					
E. Obstructions											
Type		Height Above Landing Area	Direction From Landing Area	Distance From Landing Area		3. All Landing Areas			Description of Lighting (if any)		Direction of Prevailing Wind OUT OF THE NORTH WEST
TANKS		30FT	WEST	600FT							
FENCE		4 FT	WEST END	100 FT FROM END							
HANGAR		18 FT	EAST OF WEST END	130 FT FROM CENTERL							
F. Operational Data											
1. Estimated or Actual Number Based Aircraft											
Airport, Flightpark, Seaplane base		Present (if est. indicate by letter "E")		Anticipated 5 Years Hence		Heliport		Present (if est. indicate by letter "E")		Anticipated 5 Years Hence	
Multi-engine		1		2E		Under 5500 lbs. MGV					
Single-engine		9E		32E		Over 5500 lbs. MGV					
Glider		0		1							
G. Other Considerations											
Identification		Direction From Landing Area		Distance From Landing Area		2. Average Number Monthly Landings			Present (if est. indicate by letter "E")		Anticipated 5 Years Hence
NOISE ABATEMENT PROGRAM APPLIES BE A GOOD NEIGHBOR.						Jet			0		0
						Turboprop			0		4
						Prop			20		60
						Helicopter					
						Ultralight			10		20
						Glider					
3. Are IFR Procedures For The Airport Anticipated <input type="checkbox"/> No <input type="checkbox"/> Yes Within ___ Years Type Navaid:											
H. Application for Airport Licensing											
<input type="checkbox"/> Has Been Made		<input checked="" type="checkbox"/> Not Required		<input type="checkbox"/> State		<input checked="" type="checkbox"/> County		<input type="checkbox"/> Municipal Authority			
I. CERTIFICATION: I hereby certify that all of the above statements made by me are true and complete to the best of my knowledge.											
Name, title (and address if different than above) of person filing this notice - type or print					Signature (in ink) Kenneth P Casper						
					Date of Signature 08-20-2007						
					Telephone No. (Precede with area code) 1-208-786-2844 CELL 1-208-794-7077						

RECEIVED
AUG 28 2007

8



AIRPORT MASTER RECORD

> 1 ASSOC CITY: OASIS 4 STATE: ID LOC ID: 1D4 FAA SITE NR: 04277.6*U
> 2 AIRPORT NAME: RED BARON AIRPARK 5 COUNTY: ELMORE ID
> 3 CBD TO AIRPORT (NM): 23 NW 6 REGION/ADO: ANM/SEA 7 SECT AERO CHT: SALT LAKE CITY

GENERAL		SERVICES	BASED AIRCRAFT
10 OWNERSHIP: PRIVATE	> 70 FUEL:		90 SINGLE ENG: 9
> 11 OWNER: KENNETH P. CASPER			91 MULTI ENG: 1
> 12 ADDRESS: 1910 E. CASPER LANE OASIS, ID 83647			92 JET: 0
> 13 PHONE NR: 208-796-2844			TOTAL: 10
> 14 MANAGER: KENNETH P. CASPER			93 HELICOPTERS: 0
> 15 ADDRESS: 1910 E. CASPER LANE OASIS, ID 83647			94 GLIDERS: 0
> 16 PHONE NR: 208-796-2844			95 MILITARY: 0
> 17 ATTENDANCE SCHEDULE: UNATNDD			96 ULTRA-LIGHT: 1

18 AIRPORT USE: PRIVATE
19 ARPT LAT: 43-18-38.0000N ESTIMATED
20 ARPT LONG: 115-54-09.0000W
21 ARPT ELEV: 3259 ESTIMATED
22 ACREAGE: 3
23 RIGHT TRAFFIC: NO
24 NON-COMM LANDING:

FACILITIES
> 80 ARPT BCN:
> 81 ARPT LGT SKED:
> 82 UNICOM: 122.725
> 83 WIND INDICATOR: YES
84 SEGMENTED CIRCLE: NONE
85 CONTROL TWR: NONE
86 FSS: BOISE
87 FSS ON ARPT:
88 FSS PHONE NR:
89 TOLL FREE NR: 1-800-WX-BRIEF

RUNWAY DATA
> 30 RUNWAY IDENT: 10/28
> 31 LENGTH: 2,942
> 32 WIDTH: 50
> 33 SURF TYPE-COND: DIRT-G

LIGHTING/APCH AIDS
> 40 EDGE INTENSITY: - / -
> 42 RWY MARK TYPE-COND: - / -

OBSTRUCTION DATA
50 FAR 77 CATEGORY:
> 51 DISPLACED THR: A(V) / A(V)
> 52 CTLG OBSTN: TANK /
> 53 OBSTN MARKED/LGTD: /
> 54 HGT ABOVE RWY END: 16 /
> 55 DIST FROM RWY END: 300 /

(>) ARPT MGR PLEASE ADVISE FSS IN ITEM 86 WHEN CHANGES OCCUR TO ITEMS PRECEDED BY >

> 110 REMARKS.
A 110-1 MAX ACFT WEIGHT 7500 LBS.
A 110-2 AVOID OVERFLIGHT OF THE SUBDIVISION E OF RY.

111 INSPECTOR: (N) 112 LAST INSP: 113 LAST INFO REQ: 08/20/2007

2

AVIGATION AGREEMENT

This Agreement, dated _____, 2010, is between the Red Baron Estates Pilots and Homeowners' Association [Red Baron] and the Soles Rest Creek Homeowners Association [SRCHA].

- 1. WHEREAS, Red Baron is responsible for managing the activities on the airplane landing strip located within its boundaries; and
- 2. WHEREAS, the Soles Rest Creek Subdivision [Subdivision] is located within one-quarter mile south and east of the east end of the Red Baron landing strip; and
- 3. WHEREAS, there have been incidents in the past during which airplanes taking off from or landing on the Red Baron landing strip have overflowed the Subdivision at low altitudes, causing noise disturbance, agitating livestock located within the Subdivision and disturbing the peace of the residents; and
- 4. WHEREAS, the parties have reached an agreement regarding use of the airstrip and surrounding airspace that might affect the SRCHA property.



NOW THEREFORE, the parties agree as follows:

- 1. Red Baron will establish by rule a restricted approach and departure policy, restricting minimum altitudes and departure flight patterns ensuring, to the maximum extent possible, that no aircraft will overfly the Subdivision at an altitude less than 1000 feet, with the exception ^{OF} emergencies. Departures on Runway 28 will employ a mandatory left-hand flight pattern and landing approaches on Runway 10 will employ a mandatory right-hand approach pattern. Exceptions may be made to this policy in the event of emergency conditions.
- 2. Signs describing these requirements will be prominently displayed at each end of the landing strip and members and visiting pilots will be notified of these restrictions in writing.

3. Red Baron agrees to ensure to the maximum extent possible that all Federal Aviation Regulations are observed by all aircraft utilizing the Red Baron landing strip. In particular the minimum altitudes set forth in 14 CFR Section 91.119 must, by law, be observed by all pilots utilizing the landing strip.
4. SRCHA agrees that aircraft utilizing the Red Baron landing strip may, if minimum FAA altitudes and the above-described takeoff and landing patterns are observed, fly over the Subdivision and hereby grants an easement permitting such overflights by licensed pilots and their aircraft.
5. Red Baron assures SRCHA that the Federal Airport/Facility Directory for the Northwestern United States will contain all necessary data on the landing strip indicating that utilization of the landing strip is restricted to light aircraft weighing no more than 7,500 pounds gross weight and, further, that the landing strip will have a "Restricted" designation that will have the effect of closing the runway to transient aircraft not owned by members of the Red Baron association or their invitees; provide however, that nothing contained herein indicates that the landing strip will be a certificated airport under 14 CFR, Part 139. Red Baron also assures SRCHA that the landing strip will be depicted on aeronautical charts as a private (restricted) landing strip available only for landmark or emergency purposes to the general public. Red Baron assures SRCHA that the above-described weight limitation has been assumed and adopted by the Association.
6. Red Baron further assures SRCHA that the landing strip will be, to the maximum extent possible, closed between one-half hour after sunset and one-half hour before sunrise.
7. No provision of this Agreement may be modified except by a writing duly executed by the parties hereto. This Agreement is the final expression of the parties' agreement on this matter and it may not be supplemented by any extrinsic evidence.

- 8. The easements granted herein will be vacated in the event that the landing strip is abandoned or its use as a landing strip is prohibited by a court having appropriate jurisdiction.
- 9. Remedies. In the event either party shall default on any of its agreements herein set forth, the other party shall provide written notice to that effect within ten (10) business days. In the event the claimed default is not cured or disproved within ten (10) days following the delivery of the notice, the party aggrieved by the claimed default may pursue any remedy available at law or equity.
- 10. In the event of any controversy, claim or action being made, filed or instituted to enforce the terms and conditions of the Agreement or arising from the claimed breach of any provision herein, the prevailing party will be entitled to receive from the other party all costs, damages and expenses, including reasonable attorney fees, incurred by the prevailing party.
- 11. This Agreement is binding on all heirs, personal representatives, agents, assigns and successors in interest of the parties signing below.

DATED this _____ day of _____, 2010.

Red Baron Estates Pilots and Homeowners' Association

Soles Rest Creek Homeowners' Association



Elmore County Growth and Development Department

520 East 2nd South Street
Mountain Home, ID 83647
(208) 587-2142 ext. 502
Fax (208) 587-2120

Alan Christy
Director

Bob Winterfeld
Building Official -
Code Enforcer

Beth Westerwelle
Planner I

Kacey Hultenius
Administrative
Assistant

Amended Staff Report to the Planning and Zoning Commission

Meeting/Hearing Date: 3/3/2010 & 4/21/10 **Date Report Compiled:** 4/15/10

Agenda Item: Amend a Conditional Use Permit.

Applicant: Red Baron Estates Pilots and Homeowner's Association, Inc. Kenneth R. Casper and Sheila M. Casper.

Case Number(s): CUP-2010-02

Staff: Alan Christy, Director

Location: Section 30, Township 1 South, Range 5 East B.M. A common way of locating the property is from exit 74 on interstate 84 east to Desert Wind Road then travel southeast to airstrip.

Parcel Number(s): Various due to entire subdivision.

Zoning: Agriculture

BACKGROUND:

An application to amend a Condition Use Permit was turned into the Growth and Development Office on December 2, 2009. At this time the application was incomplete due to the fact a neighborhood meeting had not been held.

On December 30, 2009 Rick Taylor delivered a termination of agreement. This document appears to be in conflict with the application.

The application was deemed complete on January 19, 2010. Notice was sent to neighboring land owners and agencies on February 4, 2010. Notice was published in the Mountain Home News on February 10, 2010. The property was posted on February 18, 2010.

A public hearing was conducted by the Elmore County Planning and Zoning Commission on March 3, 2010. The Commission heard testimony in support and in opposition of the application. Staff also had additional concerns from this hearing. The Commission decided to leave the public hearing open until a date certain of April 21, 2010.



The roads and runway within the subdivision are paved. E Desert Wind Rd. is a paved public road. The property is located within the Oasis Rural Fire District.

Surrounding property is zoned agriculture. Most of the property is open range and owned by the B.L.M.

LETTERS FOR THE RECORD

- 1. Notice from Elmore County that taxes have been paid.
- 2. Fax from DEQ stating that they have no comment at this time.
- 3. Memorandum of objections from Marcus Ward, received April 14, 2010.

ATTACHMENTS

- 1. Parcel Vicinity Map
- 2. Orthophoto Vicinity Map
- 3. Photos
- 4. Application Material
- 5. FCO's from previous Conditional Use Permits
- 6. Notice of Termination of Avigation Agreement by Rick Taylor and Judy O'Dell
- 7. Items from previous hearing on March 3, 2010

THE TWELVE STANDARDS ALL CONDITIONAL USES MUST MEET ARE:

- 1. The proposed use shall, in fact constitute a Conditional Use as determined in Chapter 8, Table 6-8-11 (C), Elmore County Land Use Table, as contained in this Ordinance;**

Staff Response: This application is an amendment to an existing Conditional Use Permit. A new conditional use permit is not required.

- 2. The proposed use shall be in harmony with and in accordance with the Elmore County Comprehensive Plan and this Ordinance (Title 6);**

Staff Response: There is the possibility of conflict with the Comprehensive Plan and the Ordinance in that it will be detrimental to existing neighbors and potentially the Mountain Home Air Base.

- 3. The proposed use complies with the purpose statement of the applicable base zone and with the specific use standards as set forth in this Chapter;**

Staff Response: Staff could not find any conflict with the applicable base zone.

- 4. The proposed use shall comply with all applicable County Ordinances;**

RECOMMENDATION

Staff has concerns about this application but feels more restrictions are needed. This is why staff recommends **approval** of the proposed amendment to a Conditional Use Permit only if the proposed conditions of approval are met.

PROPOSED CONDITIONS OF APPROVAL

1. Failure to comply with these conditions and agreement and any previously approved conditions will result in revocation of the conditional use permit.
2. All outstanding fees must be paid in full.
3. Records must be kept for how takeoffs and landings at the airstrip. The records must be turned into the Growth and Development Office once a year.
4. Each homeowner or tenant is allowed no more than three (3) aircraft invitees at any time.
5. Aircraft will not taxi to the runway from neighboring properties outside of the Red Baron Estates unless approved through a separate Conditional Use Permit.
6. No more than two (2) public open houses may be conducted per year. Notice of public events will be provided to neighbors within one mile, 15 days in advance.
7. The proposed use will comply with Part 2 of the applicants "Attachment To Application for Amendment of Conditional Use Permit."

2. Ordinance Chapter 27, Section 6-27-7 states that the Elmore County Planning and Zoning Commission shall review all proposed conditional use applications and find adequate evidence that such use meets all of the following standards. The applicant must provide said evidence. Following are the standards the conditional use must meet (please use additional sheets of paper if necessary):

PLEASE SEE ATTACHMENT

A. How does the proposed land use constitute a conditional use as determined by the land use matrix?

B. How will the proposed land use be in harmony and accordance with the Comprehensive Plan and the Ordinance?

C. How will the proposed land use comply applicable base zone and with the specific standards as set forth in the Ordinance?

D. How does the propose land use comply with all applicable County Ordinance?

E. How does the propose land use comply with all applicable State and Federal regulation?

F. What about the proposed land use's design, construction, operation and maintenance makes it harmonious and appropriate in appearance with the existing or intended character of the general vicinity and how will it not change the essential character of said area?

G. Why or how will the proposed land use not be hazardous or disturbing to existing or future neighboring uses?

H. How will the proposed land use be served adequately by available public facilities/services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer or how will these public services be provided by the applicant/developer?

Elmore County Land Use & Building Department

520 E. 2nd South

Mtn. Home, ID 83647

Amended C.U.P. Application

Red Baron Estates Pilots & HOA

This application is being submitted to request a one word change in the present/ existing Conditional Use Permit for the Red Baron Estates Pilots and Home Owners Association. We are requesting that the word "Guests" be added to our C.U.P.

All information in this Amendment request 1-21 remains the same. The exception to this is the basic contact information has changed, but that is temporary, at this point.

With this being said, I will address #22.

- A. This request will not change the "Land Uses Matrix".
- B. This request does not change the "land use" and currently is in accordance with the "Comprehensive Plan", existing C.U.P.
- C. There is no change proposed to the land use currently in place.
- D. The "land use" has already been approved and has existing C.U.P.
- E. The "land use" is not changing and currently complies with State & Federal regulations; existing C.U.P.
- F. The Red Baron Estates currently exists and existing Conditional Use permit. The homes that do exist on the estates are high end home and well maintained. The request for "Guests" will not change this fact. The only construction that will be taking place in the future will, hopefully, be new homes on vacant properties, but will still maintain the standards of the estates.
- G. The proposed "guest" wording will not change the future land use. The "Estates" & "Oasis Airstrip" are currently permitted for the intended use. The word "Guest" will allow the property owner to have company from time to time who fly. It will not be hazardous or disturbing to existing or future neighboring uses.
- H. The proposed wording will not affect any current or additional public services.
- I. This proposed wording change does not affect land use.
- J. This is not a land use change. The word "Guest" will not be detrimental in any way to the general public, or neighbors. It will entail a property owner, of the Red Baron Estate's, to have a guest that fly's an aircraft, which is a legal mode of transportation in the U.S. It is no different than a car, motor cycle, pickup, and semi -trucks etc.
- K. Land use does not change and aircraft land on the existing Oasis Airstrip which is for aircraft, not vehicles, unless doing maintenance on runway.
- L. Land use has not changed. The Oasis Airstrip is currently permitted and the aircraft do not land anywhere except for the runway.

The purpose of the request as stated in the above portion is not to change any of the land uses for which a C.U.P has been issued. The only intent is to add the word "Guests".

The association would continue to abide by all of the conditions in the existing Conditional Use permit. By adding the word guest it would allow us as property owners the ability to have an occasional guest, by way of our invitation, fly in to the estates to visit or show/ sell a property for sale.

Currently, we as property owners are not able to have a friend, family members or a real estate company visit that fly.

We, as Elmore County citizen and tax payers would like to be afforded the same rights and opportunity as every other citizen of this county; to have equal visitation rights no matter the mode of legal transportation.

Refer to J. An aircraft lands and takes off. It does not create a traffic issue; it does not hurt a person or their property. It does not create excessive noise, smoke, fumes, glare or odor.

Refer to the lifestyle of the area. We have traffic all day long up and down Desert Wind RD. We have motorcycles, lines of them every summer. We have semi training trucks all the time for days at a time and also people having work done on their properties building or remodeling that entail the use of equipment (loaders, tractors, cement trucks etc.) We have road graders grading roads, farmers plowing, planting, installing irrigation systems; homeowners installing irrigation, tilling for gardens and posies. There are animals of all shapes, sizes and species. There are home owners and guests, property owners, ranchers and guests, construction people up and down the roads throughout the immediate area on a continual basis. There are folks who stop looking for properties, Fed Ex & UPS trucks, folk's looking for directions to wherever. Some people are just out for a drive with a friend or family. There should no difference be made between the mode of transportation. We most certainly can't tell these folks that there vehicle is unacceptable in our area. All modes of transportation bring something offensive to someone. Boise North enders don't like cars in general.

An occasional aircraft from time to time throughout the year should be no different. They cause no more pollutants than any of the other modes of transportation or sources of doing business.

Another point I would like to address is the economic hardship the word "guests" has placed on the Red Baron Estates. There have been several losses of sales on vacant properties due to the fact we have been denied guests. Folks who purchase property on an airstrip expect to able to have guests fly in. Not only is this an economic hardship on the Red Baron, it also effect's the County in as much as it takes building permits sales and county tax's away from the county. This is an existing permitted subdivision that cannot sell properties due to one word, "Guests". In retrospect a person in a subdivision is told when buying a home in town that they will not be allowed to have any guest because only one vehicle per residence is allowed. That's basically the restraints the county has placed on the Red Baron because of the mode of transportation.

We respectfully request that you add the word "GUESTS" to our existing C.U.P.

Thank you for your time.

Rosie Castle

Acting President

Secretary/Treasure

Red Baron Estates Pilots & HOA

RED BARON AIRPARK

AIRPARK GROUND OPERATIONS

Non resident aircraft must have permission from a Red Baron property owner to land.

Aircraft operations are limited to one half hour before sunrise until one half hour after sunset.

Maximum Aircraft is 7500 lbs.

CATF: 122.9

Announce all aircraft ground movement activity on CATF: 122.9

Caution: Aircraft mix with auto traffic on roads and taxiways

Noise: Be a good neighbor!

AIRCRAFT PATTERN OPERATIONS

Announce all approach and pattern legs on CATF: 122.9

All aircraft must have and operate a working radio on CATF: 122.9

Pattern altitude: 800' AGL, (Approx. 4,000 MSL)

Landing runway 10: Left hand traffic, No Straight In approaches.

Departing 10: NOISE ABATMENT PROGRAM ACTIVE AT ALL TIMES! Avoid over flight of subdivision east of the field as much as safely practicable. Make climbing North or South turn to 500 feet as soon as safely practicable and minimum power settings.

Landing 28: Left hand traffic pattern. Fly short down wind to early base leg avoiding over flight of subdivision east of airstrip as much as safely practicable. No Straight In approaches. Be a good neighbor!

Departing 28: Straight out or climbing North turn to 500 feet. Preferred runway the westerly end.

14CFR;91.119 must be observed.



Beth Bresnahan

From: Alan Christy <achristy@elmorecounty.org>
Sent: Thursday, July 03, 2014 4:23 PM
To: 'Beth Bresnahan'
Subject: FW: Red Baron

Please see the attached email from Phil.

Please let me know if you have any questions.

Thanks,

Alan Christy

Director
Elmore County Land Use & Building Department
520 East 2nd South, Mountain Home, ID 83647
Ph: (208) 587-2142 ex. 269 \ Fax: (208) 587-2120
achristy@elmorecounty.org \ www.elmorecounty.org

From: Phillip R. Miller [<mailto:prmlaw@qwestoffice.net>]
Sent: Thursday, July 03, 2014 12:05 PM
To: Alan Christy
Subject: Red Baron

Alan;

Following our telephone conversation and the email from Ms. Castle, here is my opinion.

1. By what legal authority does Elmore County ask the Red Baron Estates Pilots and Homeowners Assoc. (the Assoc.) for the additional information requested at the last public hearing?

Idaho Code 67-6512(e) provides that a conditional use permit is not transferable to another piece of property. Therefore, it is attached to the piece of property and the county has a reasonable basis to request that the applicant show it has the legal authority or power over the property in question. Usually this is satisfied by showing ownership, a lease or some contractual arrangement between the applicant and the property owner. In this case, a non-profit corporation is requesting the permit amendment. Therefore it is reasonable to inquire as to whether the non-profit has the legal authority over the property to request the amendment.

2. Does the Assoc. have the authority to request an amendment to the conditional use permit?

I have had the opportunity to review the Covenants, Conditions and Restrictions to Red Baron Estates 1 and 2, the conveyance that transferred some property within the development to the Assoc., the Articles of Incorporation and one page that has been represented to be from the By-laws. The documents are circular in nature and all authorize the Assoc. to conduct all legal activities allowed under the Idaho Non-profit Act not prohibited by the CCR's the Articles and the By-laws. The most important document is the CCRs. That document does authorize the existence of the Assoc. and therefore, it does appear that the Assoc. has the legal authority over the real property to request an amendment to the conditional use permit.

3. Even though the Assoc. has the legal authority to request the amendment, can Elmore County rely of the application as set forth?

Unlike human beings, corporations like the Red Baron Assoc. are artificial persons or legal entities created by law and are separate and distinct from their members. Therefore, any human being acting on behalf of a corporation can only act in conformity to the documents creating it and the laws governing it. The authority and procedural requirements governing non-profits are set for in the Idaho Non-profit Corporations Act I.C. 30-3-1 *et seq.* Although it is quite confusingly worded, Section 30-3-87 of that act states that any entity dealing with a non-profit corporation can only be sure that the document is binding on the corporation and that the officers signing the document have the authority to do so, if it is signed by the presiding officer of the board and the president, or one of those individuals and either the vice president, the secretary, treasurer or executive director.

Alternately, as I stated in my email of June 18, I think a copy of the minutes of an Assoc. members or Board meeting would also establish that the corporate entity of the Assoc. is requesting the amendment.

I also noted that the CCRs require five directors, the By-laws require at least three and the 2013 annual report lists two directors. Since the CCRs state that the Bylaws shall not be inconsistent with the CCRs it appears that the Assoc. is not operating in conformity to the CCRs. However, I could find nothing in the Nonprofit Act that would invalidate any action taken by a nonprofit with an insufficient number of Directors.

In conclusion:

It is quite reasonable for the county to request proof that the corporate entity has the legal authority to amend the conditional use permit. The county would do so if an individual asked for the amendment and there is no reason to exempt a corporation from the same requirement.

The CCRs established by the developer, give the Assoc. authority over the management of the property. It can ask for an amendment to the Conditional Use Permit..

However, the documents presented to the county do not conform to the formal requirements needed to insure that the signor has the legal authority to act on behalf of the corporation or to legally bind it in any way.

Alan, please feel free to call with any questions.

Phil

Beth Bresnahan

From: Beth Bresnahan <bbresnahan@elmorecounty.org>
Sent: Monday, July 07, 2014 8:27 AM
To: ron@castlewoodproducts.com
Subject: documents

Importance: High

Rosie,

Phil Miller has looked over the documents that you have provided for us and the following is the comments the he has:

1. By what legal authority does Elmore County ask the Red Baron Estates Pilots and Homeowners Assoc. (the Assoc.) for the additional information requested at the last public hearing?

Idaho Code 67-6512(e) provides that a conditional use permit is not transferable to another piece of property. Therefore, it is attached to the piece of property and the county has a reasonable basis to request that the applicant show it has the legal authority or power over the property in question. Usually this is satisfied by showing ownership, a lease or some contractual arrangement between the applicant and the property owner. In this case, a non-profit corporation is requesting the permit amendment. Therefore it is reasonable to inquire as to whether the non-profit has the legal authority over the property to request the amendment.

2. Does the Assoc. have the authority to request an amendment to the conditional use permit?

I have had the opportunity to review the Covenants, Conditions and Restrictions to Red Baron Estates 1 and 2, the conveyance that transferred some property within the development to the Assoc., the Articles of Incorporation and one page that has been represented to be from the By-laws. The documents are circular in nature and all authorize the Assoc. to conduct all legal activities allowed under the Idaho Non-profit Act not prohibited by the CCR's the Articles and the By-laws. The most important document is the CCRs. That document does authorize the existence of the Assoc. and therefore, it does appear that the Assoc. has the legal authority over the real property to request an amendment to the conditional use permit.

3. Even though the Assoc. has the legal authority to request the amendment, can Elmore County rely of the application as set forth?

Unlike human beings, corporations like the Red Baron Assoc. are artificial persons or legal entities created by law and are separate and distinct from their members. Therefore, any human being acting on behalf of a corporation can only act in conformity to the documents creating it and the laws governing it. The authority and procedural requirements governing non-profits are set for in the Idaho Non-profit Corporations Act I.C. 30-3-1 et. seq.. Although it is quite confusingly worded, Section 30-3-87 of that act states that any entity dealing with a non-profit corporation can only be sure that the document is binding on the corporation and that the officers signing the document have the authority to do so, if it is signed by the presiding officer of the board and the president, or one of those individuals and either the vice president, the secretary, treasurer or executive director.

Alternately, as I stated in my email of June 18, I think a copy of the minutes of an Assoc. members or Board meeting would also establish that the corporate entity of the Assoc. is requesting the amendment.

I also noted that the CCRs require five directors, the By-laws require at least three and the 2013 annual report lists two directors. Since the CCRs state that the Bylaws shall not be inconsistent with the CCRs it appears that the Assoc. is not

operating in conformity to the CCRs. However, I could find nothing in the Nonprofit Act that would invalidate any action taken by a nonprofit with an insufficient number of Directors.

In conclusion:

It is quite reasonable for the county to request proof that the corporate entity has the legal authority to amend the conditional use permit. The county would do so if an individual asked for the amendment and there is no reason to exempt a corporation from the same requirement.

The CCRs established by the developer, give the Assoc. authority over the management of the property. It can ask for an amendment to the Conditional Use Permit..

However, the documents presented to the county do not conform to the formal requirements needed to insure that the signor has the legal authority to act on behalf of the corporation or to legally bind it in any way.

If you have any question or concerns please let me know. We will be sending out the packets to the P&Z commission on Wednesday, please have any documents to us by midmorning so we can include them in the packet.

Beth Bresnahan

Planner

Elmore County Land Use and Building Department

520 E 2nd South

Mountain Home, ID 83647

(208) 587-2142 ext 256

bbresnahan@elmorecounty.org

Beth Bresnahan

From: Ron C <ron@castlewoodproducts.com>
Sent: Wednesday, July 09, 2014 8:36 AM
To: Beth Bresnahan
Subject: Additional Information
Attachments: Red Baron_Minutes_Permission Slip_Beth.pdf

Here is the bal. of paperwork

Rosie

Red Barrel Estates Pilots & Homeowners Association Minutes

Group: Board of Directors
Start: 10:05 AM
Time: 11:40 - FRANK
Date: 2.22.14
Place: FRANK BRADY 1950 F. AREONICA
Present: FRANK BRADY, KEN CASPER, ROSIE CASTLE
By whom: ROSIE CASTLE & VISITORS

Called to Order by FRANK BRADY

Item No.	Agenda Item	Action	By whom
1	Current dues Dues for FRANK Report	Brykoni Read List of HOA Dues in a letter & Current Budget in a Book.	ROSIE CASTLE & Discussion
2	Numbering Need	Signs per need, CRACKS need to be sealed Oil KIMMUR. See about getting bids on work & budget in to FINANCES.	FRANK BRADY & Discussion
3	Rule making	Discussion on increase of F.C. to 12% for Delinquent HOA Dues to cover cost of piping in & inspection process. No definitive decision made at this meeting. Take up in next meeting.	FRANK BRADY & Discussion
4	Mail boxes	Mail being stolen from Residents mail boxes Decision was made to put locked boxes on mail boxes at entrance of Piper.	Nick Andros who was Absent, but had asked to discuss this issue. Ken Casper & Further discussion.
5	Amend CLIP to and the word "Piper"	This discussion has been brought to the floor on several different occasions. Had been tabled till after the holidays & new business taken care of. The decision was made with a great deal of discussion with a 90% on the amendment. It was decided that due to time & availability of other board members & FRANK BRADY going to be out of country that ROSIE CASTLE, Secretary, would take over whatever necessary to submit an amendment & hold a special board meeting.	Ken Casper brought to Floor for vote. Rosie Castle Second-in-line 3, MAY & FRANK BRADY

Rosie Castle

Frank Brady

RED BARON ESTATES PILOTS & HOMER OWNERS ASSOCIATION

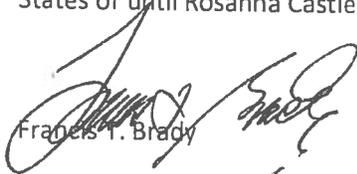
1950 E AERONCA COURT

OASIS, IDAHO 83647-5104

3/13/2014

To whom it may concern,

I give Rosanna Castle my Proxy vote on items pertaining to the Red Baron Estates Pilots and Home Owners Association, to do as is necessary for the Home Owners Association. Until I return to the United States or until Rosanna Castle gives it back to me.


Francis T. Brady




STATE OF Idaho)

COUNTY OF Elmore)

On this 13th day of March

In the year 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared

Francis T. Brecht

Known or identified to me to be the person (s) whose name (s) are/is subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

Signature Joanne Martinez

Residing at Stennis Ferry

Comm. Exp: 9/28/2019



Elmore County, Idaho
Land Use & Building Department

LEGAL NOTICE OF PUBLIC HEARING

Elmore County
Planning & Zoning Commission
Will hold a continuation of a Public Hearing
to accept testimony and to consider an
application to amend an existing Conditional
Use Permit CUP-2004-10 in Agriculture
(AG) Zone.

Applicant: *and names higher photo and description available*

Hearing Date: Wednesday July 16, 2014

At 7:00 p.m. Case: CUP-2014-10

In the War Memorial Hall

(American Legion)

515 East 2nd South

Mountain Home, Idaho

For more information, contact

COUNTY PLANNER

(208) 587-2142 Ext 254

Photos taken 7/7/14



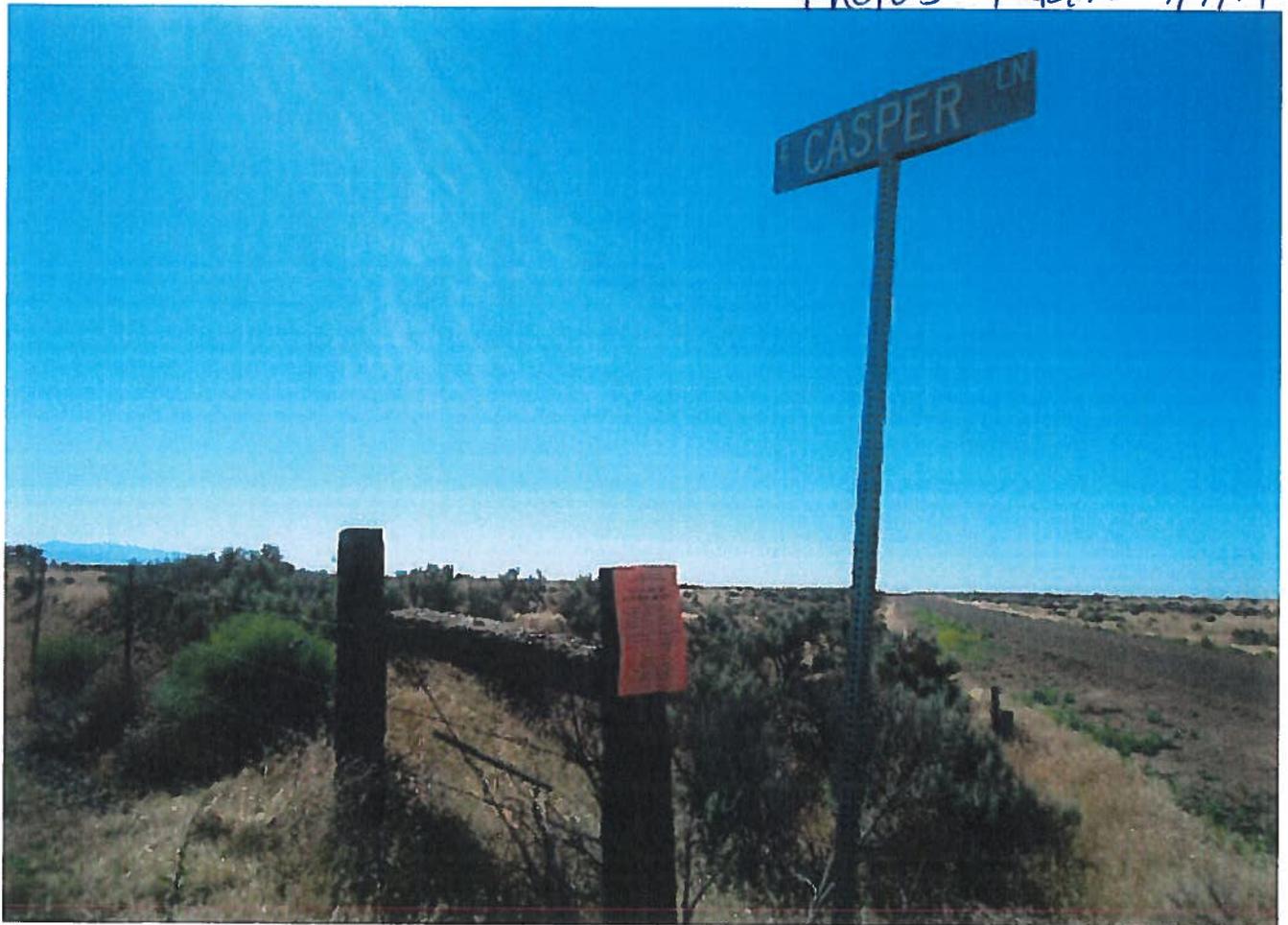


Photos taken 7/7/14



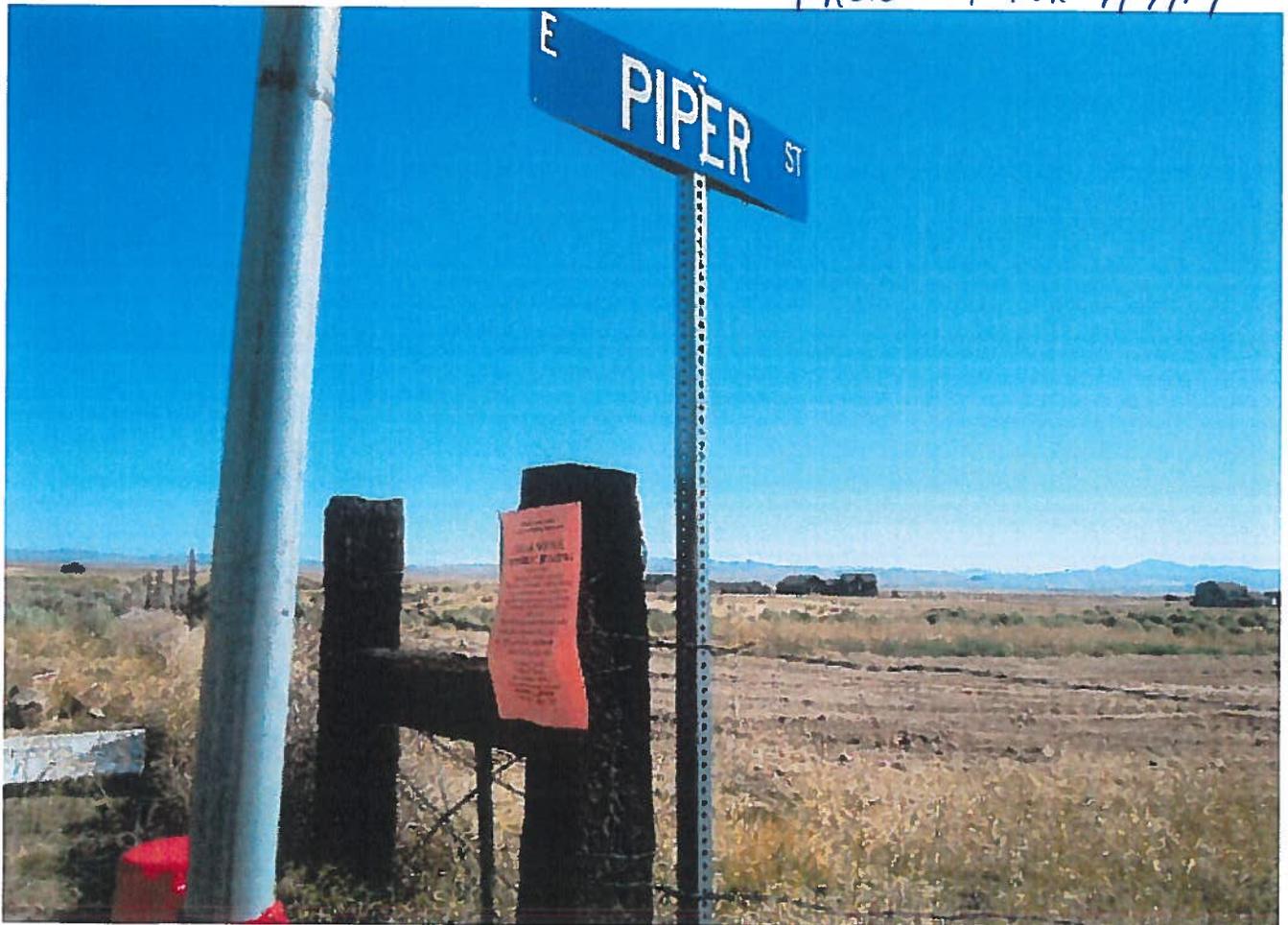


Photos taken 7/7/14





Photos taken 7/7/14





Photos taken 7/7/14



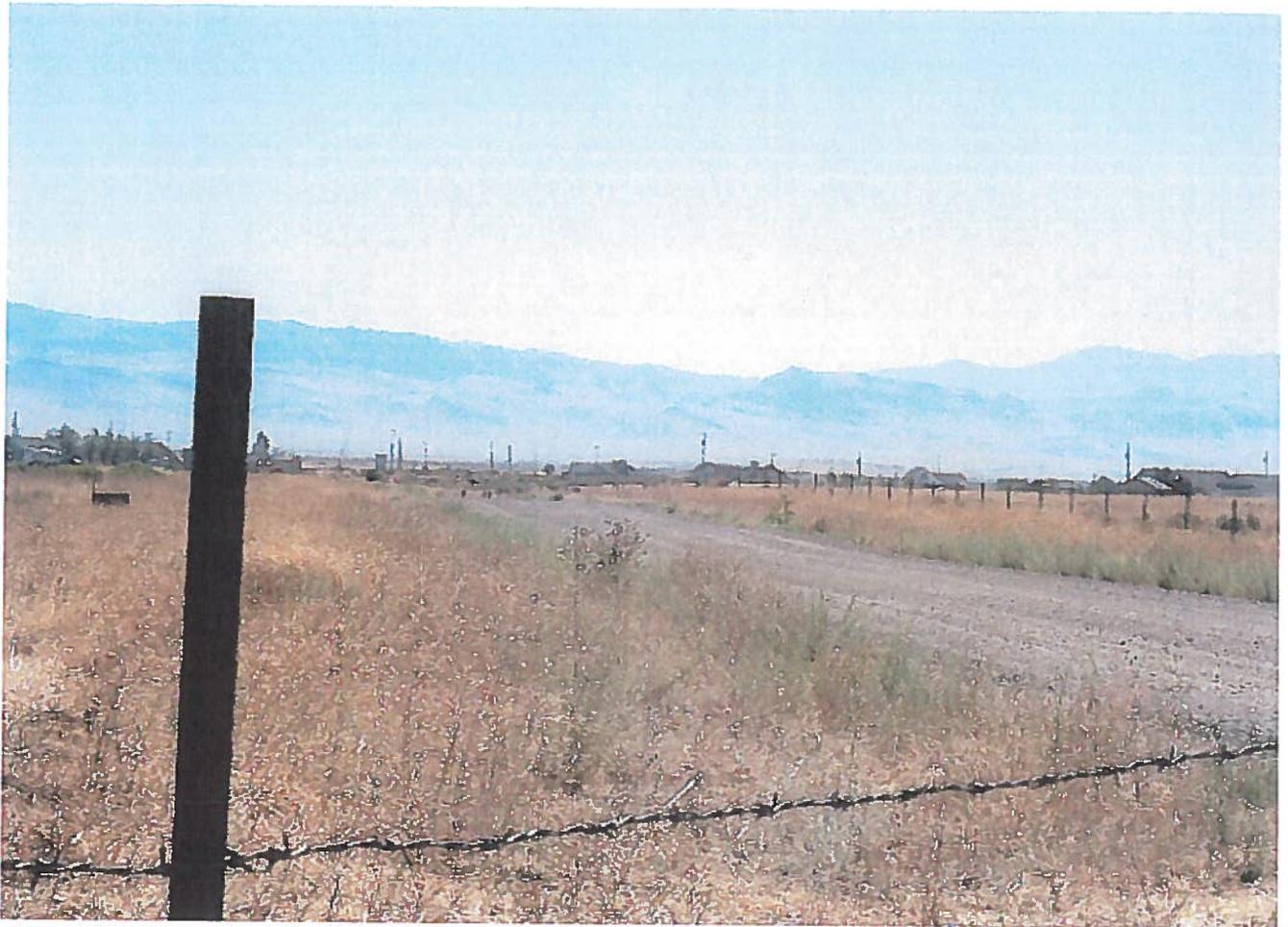


Photo taken 7/7/14

**BEFORE THE PLANNING AND ZONING COMMISSION
OF ELMORE COUNTY**

**IN RE: CUP-2014-09)
 Conditional Use Permit)
 to subdivide property)
 into a two (2) lot)
 subdivision in an)
 Agriculture (Ag) Zone)
)
)
)
 Applicant:)
 Servando & Josefina Tapia)
 PO Box 852)
 Mountain Home, ID 83647)**

**FINDINGS OF FACT
 CONCLUSIONS OF LAW
 AND ORDER**

This matter having come before the Planning and Zoning Commission of Elmore County, Idaho, the 18th day of June, 2014, for a public hearing, held pursuant to public notice as required by law, on a request for a Conditional Use Permit to subdivide property into a proposed two (2) lot subdivision. Property is located in NW1/4 NW1/4 Section 10, Township 4 South, Range 6 East, B.M., and is zoned Agriculture (Ag). The Commission heard from the applicant's representative in support of the application. The Commission received written testimony and information in regards to the application. Upon conclusion of the public hearing, the Commission duly considered all that was presented to them. Based upon all this information, the Planning and Zoning Commission now makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The applicant has applied for a Conditional Use Permit to subdivide property into a proposed two (2) lot subdivision in NW1/4 NW1/4 Section 10, Township 4 South, Range 6 East, B.M.
2. Pre-application meeting was held November 13, 2013. Neighbors within 1,000 feet were notified of a neighborhood meeting by applicant on November 18, 2013, via U.S. Mail and a neighborhood meeting was conducted on November 30, 2013.
3. Notice of public hearing was sent to agencies on May 19, 2014, via U.S. Mail and email, property owners within 1,000 feet on May 19, 2014, via U.S. Mail, publicized in Mountain Home Newspaper on May 28, 2014, and posted on the property on June 9, 2014.
4. The property is located within an Agriculture (Ag) Zone and is located ¾ miles west from Mountain Home Area of City Impact.
5. The surrounding land uses are rural residential and agriculture.

6. The proposed use will, in fact, constitute an allowed conditional use in that zone, as determined by the Land Use Matrix and Zoning District regulations Chapter 8, Table 6-8-11 (C) and Chapter 27 of the Elmore County Zoning and Development Ordinance.
7. The proposed use will be in accordance with goals and objectives of the Comprehensive Plan; Land Use Objective #6- Encourage orderly development of subdivisions and individual land parcels, #11- Encourage and support land use proposals that are consistent with the community design objectives of all communities and districts within the County, and with all the applicable provisions of the Zoning and Development Ordinance.
8. The proposed use will comply with all applicable County Ordinances.
9. The proposed 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. Any additional services, such as the road, will be at the expense of the applicant. All parcels will have access to SW Corona Dr.
10. The proposed 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. Any new approaches will need to be approved through the Mountain Home Highway District.
11. The proposed 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 use in the vicinity is rural residential and agricultural razing. There are 8 platted County subdivisions within 1 mile. There are 110 parcels within 1 mile with an average size of 32.47 acres, 47 parcels are under 5.0 acres in size within 1 mile.
12. The proposed use will not be hazardous or disturbing to existing or future neighboring uses. There are a number of residential homes and platted subdivisions in the vicinity.
13. The proposed 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. All improvements will be constructed at the applicant's expense.
14. The proposed 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.
15. The proposed use will not result in destruction, loss or damage of a natural or scenic feature of major importance.

Based on the foregoing **FINDINGS OF FACT**, the Elmore County Planning and Zoning Commission hereby makes the following:

CONCLUSIONS OF LAW

1. The requirements of Idaho Code Section §67-6509 have been met.
2. The action taken herein does not violate Chapter 80 of Title 67 of the Idaho Code.
3. The applicant has met the requirements of the Zoning and Development Ordinance Chapter 27 for a Conditional Use Permit as shown above in the findings of fact.

Based on the forgoing **CONCLUSIONS OF LAW**, the Elmore County Planning and Zoning Commission hereby enters the following:

ORDER

The application for a Conditional Use Permit to subdivide property into a proposed two (2) lot subdivision in NW1/4 NW14 Section 10, Township 4 South, Range 6 East, B.M., should be and is hereby **APPROVED** with these additional conditions:

ADDITIONAL CONDITIONS

1. **Proposed use will comply with Chapter 28 of the Elmore County Zoning and Development Ordinance.**
2. **Failure to comply with any condition may result in the revocation of the conditional use permit.**
3. **All outstanding taxes and fees must be paid.**
4. **All improvements must be completed or bonded prior to recording the final plat.**
5. **The original property must maintain a perimeter fence.**

COMMISSION VOTE:

CHAIRPERSON PATTI OSBORN
VICE CHAIRPERSON K.C. DUERIG
DEBBIE LORD
SUSAN FISH
BETTY VAN GHELUWE

VOTED AYE
VOTED AYE
VOTED AYE
VOTED AYE
VOTED AYE

SHANE ZENNER
ED OPPEDYK
JEFF BLANKSMA

VOTED AYE
VOTED AYE
VOTED AYE

Patti Osborn, Chairperson

ATTEST:

Alan Christy, Director

DATED this _____ day of _____ 2014.

*Effective at 12:01 A.M. on the _____ day of _____ 2014.

*Note A decision made by the Elmore County Planning and Zoning Commission may be appealed to the Board of Elmore County Commissioners provided the appeal is submitted in writing to said Board within ten (10) calendar days of Commission action. Questions concerning appeals or deadlines should be asked of the Elmore County Land Use and Building Department or the Elmore County Clerk.

**ELMORE COUNTY
PLANNING AND ZONING COMMISSION**

MINUTES

Wednesday, June 18, 2014 at 7:00 pm

Chairperson Osborn called the meeting to order. Members of the Elmore County Planning and Zoning Commission present were Vice Chairperson K.C. Duerig, Shane Zenner, Jeff Blanksma, Debbie Lord, Betty Van Gheluwe, Ed Oppedyk, and Sue Fish. Also present were Attorney of Record Phillip Miller, Director Alan Christy and staff members Beth Bresnahan and Kacey Ramsauer.

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

Servando and Josefina Tapia for a Conditional Use Permit to subdivide property into a 2-lot subdivision in a Agriculture (Ag) Zone. Case Number: CUP-2014-09. The site is located in the NW1/4 NW1/4 Section 10, Township 4 South, Range 6 East, B.M. A common means of locating the property is from Air Base road turn south on to Highway 51, turn right on to Old Grandview Highway, approximately ¼ mile turn right on to SW Corona Dr., property is located at 3355 SW Corona Dr.

Bresnahan gave staff report and background.

The applicant did not wish to testify.

There was no one signed in to testify.

Osborn closed this public hearing.

Commission action:

Lord stated that there is BLM land on 2 sides of this property and she would recommend a condition that the perimeter be fenced to keep livestock out.

Oppedyk moved to approved with the condition requiring fencing to keep livestock out.

Van Gheluwe seconded.

Motion carries unanimously.

Red Baron Estates Pilot's and Homeowner's Association to Amend an existing Conditional Use Permit CUP-2004-10 in a Agriculture (AG) Zone. Case Number: CUP-2014-10. The site is located in the S1/2 NE1/4, NE1/4 SE1/4, Section 30, Township 1 South, Range 5 East, B.M. A common means of locating the property is from Interstate 84 take exit 74, turn north on Simco Rd. to Desert Wind Rd., turn right on Desert Wind Rd., travel approximately 3.7 miles to Piper St. Property is on the North side of Desert Wind Rd.

Christy stated that staff received some additional information from attorney Phil Miller. He stated that at this time staff would recommend tabling this application to a date certain in an attempt to

have the applicants provide additional information and give staff and legal counsel time to review any submitted documentation.

Miller stated that after reviewing the staff report and looking at the past history and the conditional use permits in this case they are under the name of Hennis and Casper; and Hennis, Casper, and the pilots association. He stated that this application for amending the conditional use permit is by The Red Baron Estates Pilot's and Homeowner's Association. He stated that usually the developer gets a conditional use permit and the permit runs with the property. He stated that at this point from the materials in front of him he cannot tell exactly what the relationship with Homeowner's and Pilot's Association is with the developers. He stated that he did notice that in the packet there is some information about a lawsuit which lists the Homeowner's and Pilot's Association as a nonprofit corporation. He stated to the best of his knowledge the commission members have not had time to review the bylaws or any documents which set up the Pilot's Association to make sure it actually has the legal authority to act as the permittee for the conditional use permit. He stated that in addition normally on something like this the corporation or the homeowner's association have some formalities that they go through. He stated that the application was signed by the secretary and we do not know at this point whether the secretary had the authorization to do that, whether the directors have the authority within their bylaws to ask for amendments, and to manage the airport out there. He stated that we don't know under the bylaws if it would require a vote of the members or anything like that. He stated that before they can get to any factual issues involved in this amendment his recommendation is to back up and look at some of the basic facts and to make sure that the pilot's association has the legal authority to ask for this amendment.

Osborn asked if there were any questions for Miller regarding his recommendation.

There were no questions.

Christy stated that there is a regular meeting for the P&Z on July 16, 2014. He asked Miller what the notification requirements would be for tabling this.

Miller stated that the case law says for a public hearing if you table or continue to a date certain that acts as notification. He stated that the commission can request that staff re-notice the public hearing.

Duerig stated that it would be advantageous to re-notice because this may be a contentious issue.

Duerig moved to table this public hearing to a date certain of July 16, 2014.

Oppedyk seconded.

Motion carried unanimously.

Due to some confusion in the crowd Miller re-stated what information was needed and why the public hearing was tabled.

Osborn stated that there would be a 5 minute recess to allow people to leave the meeting.

Osborn called the meeting to order after the recess.

PUBLIC MEETING

Preliminary Plat for SUB-2014-02 Elk Valley Subdivision #2

Christy gave staff report and background.

Duerig moved to approve with the following conditions:

1. All improvements, including road turnarounds must be completed or bonded prior to recording of final plat. If turnarounds are not constructed a full 60' easement must be recorded for all roads on the final plat.
2. Final Plat must be recorded within 2 years.

Fish seconded.

Motion carried unanimously.

Minutes

Minutes from 05-21-2014

Lord moved to approve.

Duerig seconded.

Motion carried with Van Gheluwe abstaining as she was not present at this meeting.

NEW BUSINESS

Upcoming P & Z Schedule

Christy stated that July 16, 2014 is the next scheduled meeting due to the Fourth of July holiday. He stated the comprehensive plan meeting will be held August 6, 2014.

MEETING ADJOURNED

Patti Osborn, Chairperson

Date:

Attest: _____
Alan Christy, Director

Date: