

ELMORE COUNTY
PLANNING AND ZONING COMMISSION

MINUTES

Wednesday, March 21, 2012 at 7:00 pm

Chairperson Osborn called the meeting to order. Members of the Elmore County Planning and Zoning Commission present were Chairperson Patti Osborn, Debbie Lord, Betty Van Gheluwe, Sue Fish, Jeff Blanksma, Ed Oppedyk and Jim Martin. Also present were Attorney Phil Miller, Director Alan Christy and staffs members Beth Bresnahan and Kacey Hultenius. Consultants Bruce Wall, Sylvia Copeland and Lance Warnick were also in attendance.

Osborn established a quorum.

Pledge of Allegiance.

PUBLIC HEARING

Christy read the rules for the public hearing.

Continuation of a public hearing to accept testimony and consider an application from Arbor Ridge, LLC and Powder River Development Company, Inc. for a Planned Community Application, consisting of a Zoning Ordinance Map Amendment (Rezone) with Development Agreement, Comprehensive Plan Amendment and Ordinance Text Amendment to be known as Mayfield Springs Planned Community in a Agricultural (AG) Zone. The site is located in Section 34 and 35, Township 1 North, Range 4 East, B.M. Property is located from I-84 exit at Indian Creek Road or Simco Road, and parcels are via Desert Wind Road (Old Highway 30).

Van Gheluwe recused herself from this hearing as her employer Elmore Medical Center has had meetings with the applicant and has a financial interest in this project.

Christy gave staff report and background. He stated that all testimony and the presentation are in regards to the wildlife mitigation plan and proposed mitigation only.

Susan Buxton is an attorney representing the applicant. She stated that one of the issues that they are looking at is trying to get a finding that addressed the county ordinance and also addresses the proper use of private property and looking at wildlife issues. She stated that basically the county is not trying to increase the amount of wildlife on private property but rather trying to find a way to mitigate wildlife as to not create any adverse affects in such a manner that they are following state and federal law. She stated that on private property there is no protection for endangered species that are plants. She stated that there has not been a survey to show that there are endangered species on this piece of private property but even if there were you could not exclude an area around slick spot pepper grass if there was some because it is on private property. She stated that they are taking something that otherwise the county would not have the ability to regulate through ordinances, give an incentive to property owners to be able to use their property to provide mitigation. She stated that by doing a conservation easement on 105 acres; there would be a third party holder that would manage that to make sure that those conservation values are met to the benefit of the public, neighbors, and the people who are living in this community. She stated that they have these conservation easements all over the state.

Martin asked if federal land would be the buffer for wildlife.

Buxton stated that is the most likely, legal position to take.

Charlie Baun is working on the wildlife mitigation plan. He stated that they did a number of surveys to complete the plan that included both flora and fauna. He stated that they did baseline vegetative mapping which is where he did onsite mapping of the entire area and it's a better mapping tool that you will ever find with any other source. He stated that they did condition classification based on a USDA and US Department of Interior standards called rangeland indicators. Technically they're the kind of overall holding for all the information for all the agencies. He states that it's not always up to date; however they took their list and in addition to their list we added about 7 additional species that we knew, based on habitat conditions there and use patterns, would also potentially be there. He stated that based on the area during the month of May we go and do bird surveys to see what migratory and nesting bird species both use the area and could potentially use the area. He stated that the last thing was big game surveys. Big game surveys were done both during the time of the surveys, not directly was an indirect survey looking for scat, tracks, evidence of use and then also winter surveys. He stated that they not only did that site but an additional 7,000 acres. He stated that between 2005 and 2008 they surveyed approximately 13,000 acres in and adjacent to this property. He stated that in addition to the site survey done onsite they also have anecdotal and indirect observations associated with those surveys as well. He stated that flora and fauna were basically broken down into mammals, birds, reptiles, amphibians, and invertebrates groups. He stated that they look at the development impacts on those: lighting, traffic, all of the above. He stated that they specify in there that there will be adverse impacts to wildlife and flora. He stated that the mitigation package looked at, based on the impacts of onsite; they identified an offsite parcel of 105 acres. Now, again, doing the comparison, based on the onsite conditions, taking into consideration the existing development pressures, roads, and other aspects that again already have an impact on wildlife. He stated that there were surveys done for all threatened and endangered species onsite. He stated that there were no identified threatened or endangered species at the time. Since then lepidium perfoliatum has been listed. However; lepidium perfoliatum wasn't the key species that they surveyed for. He stated that slick spots were identified but there was no lepidium perfoliatum identified during that survey. He stated that most of the slick spots that were identified during that survey were invaded by cheat grass which is a non persistent slick spot, the likely hood of slick spot peppergrass existing is very low.

Sylvia Copeland is a wildlife biologist with Power Engineers in Boise. She stated that there is something under the County ordinance that says the wildlife mitigation plan should make sure that rare plants are preserved and she just wanted to point that out. She stated that she is not certain that Baun surveyed the grasslands. She stated that there is a botanist in her office that is also a species expert on this plant and she showed her pictures of slick spots with slick spot peppergrass surrounded by cheat grass and crested wheat grass, so just because it is in grasslands does not mean there is no habitat. She stated that if there is potential habitat then that should be treated as such, even though Baun stated that he did not find any. She stated that after her and Rick Ward's meeting with Baun in late November, she still feels as though Baun's methods are unclear. She stated that she commends the developer for suggesting the offsite mitigation. She stated that it has the potential to be valuable for wildlife; however Baun is proposing a 3 to 1 ratio based on the possibility of restoring the riparian area is hard without knowing that you are going to have water. She stated that without knowing what happens to the water down the road, it's going to be next to impossible to restore the riparian area so she would be hesitant to give him that much credit for that part of the mitigation. She stated that she feels like it is important to have an objective wildlife mitigation plan which Baun says is not possible and she disagrees with that. She stated that you can objectively quantify the resources that are available and what the impacts are.

Rick Ward is with the Idaho Department of Fish and Game. He stated that one of the outstanding questions in his mind is what is the comfort level of the Board of County Commissioners and the Planning and Zoning Commission regarding the surveys that have been conducted and the proposed mitigation? He stated that there is a lot of subjectivity going on here and he agrees with that. He stated that the assessment side of the wildlife mitigation plan can be objectively done. He stated that there are

still a lot of questions regarding survey methodology. He stated that Baun referred to standards to meet on the offsite mitigation and he does not know what those are. He stated that in order to access the value of that offsite mitigation and what that is going to be down the road they must have some idea of what the goal is because right now it's pretty trashed. He stated that he would like to see the specifics of the goal of the offsite mitigation.

Joe Bier signed in as neutral. He stated that he has not heard anything about whether or not the aquifer comes through this way to Mountain Home?

Osborn stated that tonight's testimony is only about the wildlife mitigation issues and nothing else.

Bier asked if anyone had gone out to see if the kangaroo rat still exists in this area because they are endangered. He stated that it makes no sense to build all these new homes when there are 520 empty homes here.

Tawnya Bolshaw is signed up in opposition. She stated that she would like to know where Baun did these surveys. She stated that if they want to know what habitat is out there and what is going on the need to talk to the neighbors. She stated that she has seen a lot of wildlife in the time she has lived out there.

Dana Quinney is a homeowner in the Mayfield area and is speaking in opposition. She stated that she is a retired wildlife habitat biologist. She stated that she thinks that the lepidium work that Baun did is probably ok. She stated that it is really easy to quantify things when you have a lot of assumptions. She stated that granting this is premature. She stated that lepidium perfoliatum is an annual plant. She stated that just because it's not there this year does not mean it won't be there 4 years from now. She stated that she is very suspicious of offsite mitigations plans. She wants to know what percentage of the development the mitigation is going to be in.

Susan Buxton gave her rebuttal testimony. She stated that the applicant has done everything that was asked of them and more. She stated that 105 acres of this 867 acre parcel is the proposed conservation easement. She stated that there is a map showing this in the packet and that it is not new information. She stated that they have heard from numerous sources that this particular area is not the most desirable for habitat. She stated that if you are going to maintain at least a status quo that you are going to avoid or reduce and mitigate negative impacts from the development itself; that is what is required here, it is not to mitigate any and all wildlife issues in Elmore County.

Greg Johnson is the applicant. He stated that the conservation easement is proposed approximately one mile north on land that he owns. He stated that part of it is in Ada County and the majority is in Elmore County. He stated that there are no easements at this time and he would have to create them if need be. He stated that they are proposing offsite mitigation is because he owns the property, it's adjacent to BLM on 2 sides, and it has a water source. He stated that it would need some improvement for habitat.

Charlie Baun stated that through their surveys they saw no lepidium onsite, but they did identify slick spots so it is identified as potential habitat. He stated that they did survey all of the grasslands. He stated that the area is used by big game but you can't say for sure how many because that number changes all the time. He stated that they base their numbers on the amount of track and scat that's in place, the winter surveys that we did were basically from road. He stated that anecdotally you can identify key areas verses general use areas. He stated that pronghorn antelope, mule deer and elk use that area; we know that because you can see them there. Most of the wildlife species use that area. The conservation easement is very different, there are not that many large watered areas with some riparian functions, you don't get very many of those.

Susan Buxton gave her rebuttal to the public testimony. She stated that many experts have testified that this is not the most desirable piece of property in Elmore County as far as wildlife does goes. She stated that the County requires PC's to maintain at least a status quo that you have to avoid or reduce and mitigate negative impacts from the development itself, which is what is required here. She stated that it is not to mitigate any and all wildlife issues that we have here in Elmore County. She stated that 28% of the

entire acreage of this project is going to be open space or part of this conservation easement. She stated that the developer has more than met the County's standard.

Osborn asked if there was access to the property proposed for the conservation easement.

Greg Johnson is the applicant and he stated that he would have to provide that as there is none at this time. He stated that he chose this parcel of land because he owns it and he can do this and that it is adjacent to BLM and there is a water source that enhances it.

Charlie Baun responded to the public testimony. He stated that when they did the surveys they did not observe any lepidium on the site. He stated that they surveyed the grasslands as well as the sagebrush areas. He stated that the studies that they did for big game animals is the same as if they would have gone out and spent millions of dollars and lots of time. He stated that they know big game use the area but they can't say on a definitive basis how much they use it because that will change on an annually. He stated that this an adaptive approach where they continue it over time and it will change over time. He stated that someone commented that they would like to keep the livestock. He stated that livestock is one of the reasons that a lot of the habitat is already degraded as it is. He stated that as long as there is a process it can be managed.

Susan Buxton stated that the county needs to balance these requirements for wildlife mitigation so that everyone is treated the same throughout the county. She stated that if you want to have such drastic requirements for a planned community versus someone who wants to split a 40 acre parcel and not have them do any wildlife mitigation that they need to be careful because you run a very slippery slope if they don't require this all the time of everybody in the county.

There was no further testimony.

Commission consensus was to hold these meetings open to a date certain.

The meeting will be held open until May 9, 2012 at 7:00 pm at a location to be determined.

Van Gheluwe rejoined this public hearing.

MINUTES

Minutes from 2-15-2012

Martin moved to approve.

Van Gheluwe seconded.

Motion carried unanimously.

UPCOMING P&Z SCHEDULE

Christy stated that there are still meetings scheduled for the 4th and 18th of April 2012.

Christy stated that on June 6th and 20th, 2012 that he will be unavailable on these dates and would like move the June meeting dates to the 13th and 27th, 2012. The Commission agreed to this unanimously.

Christy stated that as of this date there is an amended and restated ordinance and the Commission will be getting copies of that hopefully by the next meeting. He stated that everyone should be commended for all of the work and effort they put in.

MEETING ADJOURNED

Approved

Approved



4/18/12

Patti Osborn, Chairperson

Date:



4.18.12

Attest:
Alan Christy, Director

Date: