

ELMORE COUNTY
PLANNING AND ZONING COMMISSION

MINUTES

Wednesday, August 7, 2013 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, Jim Martin, Debbie Lord, Betty Van Gheluwe, Sue Fish, and Jeff Blanksma. Also present were Attorney of record Phil Miller, Director Alan Christy and staff members Beth Bresnahan and Kacey Ramsauer.

PUBLIC HEARING

Willa Rose (S.H.E. Inc.) for a Conditional Use Permit for a Dude Ranch in a Agriculture (Ag) Zone. Case Number: CUP-2013-07. The site is located in Section 1, Township 2 South, Range 5 East, B.M. A common means of locating the property is from Interstate 84, exit 90, west on on to Ditto Creek Road to Martha Ave, property is approximately 1.5 miles, 8894 W Martha Ave.

Bresnahan gave staff report and background.

Willa Rose is the applicant. She stated that she would like to address the concerns regarding the shooting range and archery range. She stated that when she first applied she was told to list anything and everything she wanted to do on this property so they added this to it. She stated that they would seek advice from those who know how to make that legal because they do not.

Joseph Morrisette is the applicant's husband and land owner of the property on this application. He stated that the firing range was an afterthought. He pointed out a to-scale drawing of the property that they had provided. He described the concept for the shooting range. He stated that it will not be open to the public, only as a private club.

The drawing was entered into the record as Applicant Exhibit # 1.

Miller asked what regulations they would be following.

Morrisette stated County regulations for sure and the National Sport Shooting Association and the National Rifle Range Association all have requirements.

Osborn asked if they are willing to meet all state and federal guidelines if they are present.

Morrisette stated they would absolutely do that.

Rose stated that the archery range is a long range mounted archery range with a berm behind it to catch the stray arrows.

Rose stated that they are very conscientious about fire protection. She stated that they have the perimeter of the property mowed about 2 lanes wide and short clipped for fire protection. She stated that she knows the fire district was concerned about the number of people that may be coming in and out of the property. She stated that the widths of the roads are designed to be 24 feet wide with many ways in and out so that no one gets blocked in the area.

Osborn asked what materials would be used to design the roads.

Morrisette stated that they would use commercial road base materials.

Miller asked what entity actually owns this property.

Morrisette stated that he is on the bank loan along with Steven Roosevelt. He stated that currently it's an Idaho partnership with 5 partners and will be converted to an S Corporation in a

year. He stated that they would prefer the CUP run with the real property and not them as landowners. He stated that they do not plan to subdivide even though they do plan on other people joining the partnership. He stated that it will be a dude ranch essentially. He stated that the events will not be large ones at all.

Martin stated that he wants to make sure that this is all contiguous property and none of it is BLM.

Morrisette stated that there is a 10 acre parcel and a 70 acre parcel but they have title to the entire 80 acres and none of it is BLM.

Martin asked if the 10 acre and 70 acres was all under private ownership.

Morrisette stated that it was.

Martin asked if Morrisette understood the difference between what we were discussing earlier with whether the CUP goes on the land or with the person.

Morrisette stated that he believes that he does.

Van Gheluwe asked how many families would be living there.

Morrisette stated they anticipate 6 families. He stated that there is a 2 story home that will become the homestead and they plan on building smaller homes for the families to live in.

Martin asked if these would be leased or if they would buy into the partnership.

Morrisette stated it would be a corporation and they would be stockholders in that corporation.

Blanksma asked how many animals they intended on keeping at the proposed horse motel.

Rose stated that they are planning on it being a stopping point for people traveling to keep their animals for the night as they are close to the interstate. She stated that they plan on boarding a small amount of horses on the property that are associated with the academy. She stated that they do have a water right to irrigate about 21.5 acres

Rose stated that in the staff report it states that they are required to give a 30 day notice prior to events on the property. She wants to know what they would classify an event as.

Christy stated that it would be anything that is publicized.

Martin stated that it seems that when you're talking about notifying the health department within 30 days and the sheriffs department within 30 days that your concerned about having enough bathrooms or law enforcement to cover the number of people that are going to be there because people are always people no matter how good they want to be. He stated that you might have to coordinate with those two departments in order to see what they consider their perception of how many people would constitute being notified 30 days in advance.

Jinks Hunter is in support. She stated that as a neighbor she stated that this fits the area.

Jolene Hobdley signed in as neutral. She stated that she would like to see the same 30 day notice of events given to the Oasis Fire District as well. She stated that she is the secretary of that department. She stated that the community of Oasis has a calendar that she can post her events on as well.

Martin asked Christy if posting on a community calendar would satisfy that requirement of notifying area neighbors.

Christy stated it obviously helps.

Guy Burnham is speaking as the assistant fire chief of the Oasis Fire District. He signed in as neutral. He stated that he likes what the applicants want to do but they do have some concerns as a fire department. He stated that they are concerned mostly with the size of the events and if there were a grass fire where would people go to evacuate it and if they would try to leave in the same direction the fire trucks were coming to try and get to the scene He stated that they are kind of feeling their way around this as to not burden the applicant but to keep everyone in the area safe. He stated that they are a bit concerned with the extra housing units because they are not quite sure how to deal with that. He stated that they have standards for subdivisions and

structures are very difficult to put out and are a great fuel source. He stated they aren't sure which standards apply to this. He stated basically they need more details on the plans of the applicants. He stated that the district would prefer to have the shooting range pulled out of this CUP completely and dealt with separately.

Martin asked if Burnham would agree that with all the plans that we make to prevent such things to happen that there is probably no fail safe. He stated that maybe in the back of his mind and maybe the other commissioners can agree that it would seem to him that if the applicants and the fire department sat down and came up with an MOU (Memorandum of Understanding) that covered everything, maybe a water storage tank that could facilitate taking care of the buildings when they are developed or things like that. He stated that this would answer a lot of questions. Burnham said they would be happy to do that.

Christy stated that if adding a memorandum of understanding as a condition is the case that will have to get sorted out. He stated that after hearing some of the testimony it may be a good idea to have to applicants/owners come in with a biennial update every couple of years to track the progress as it had been done with other conditional use permits in the past.

Martin asked if Christy would be adding that as another condition.

Christy stated that he would recommend that the commission do that.

There was no further testimony and the applicants have the opportunity to rebut.

Morrisette stated that they are very aware of the fire danger in that area. He stated that this is the second volunteer fire department that he has been involved in. He stated that he is certified as a firefighter and spent several years working with the BLM with land fires. He stated that they have a perimeter around their property with a minimum of 24 feet. He stated that there are 2 ponds on the property and they have a gas powered pump to pump water out of the ponds. He stated they have a water trailer with a 300 gallon tank set aside for fighting fires.

Rose stated that they have cleaned up the property to help with fire protection. She stated that it will be easy for them to work with the fire department with anything they need.

Lord asked if the bike, foot racing and endurance riding proposed in the application will take place on their property.

Rose said they would get permission from the lands around them for this.

Lord asked if the shooting range would have mounted shooting rather than a shooting range.

Rose stated that mounted shooting is definitely an activity done in a large arena and the pistol pits would capture the bullets so they would not be flying around. She stated the activity will be organized by someone who trains people to shoot safely.

Osborn closed this public hearing.

Lord stated that she had one more question.

Osborn reopened the public hearing.

Lord asked if they were planning on having RV hookups for campers.

Rose stated that they were not.

Osborn closed this public hearing.

Commission action:

Lord stated that boarding houses and things of that nature are temporary living.

Duerig stated that the shooting range and the housing situation be heard separately from this CUP. He stated that they need more information on this.

Martin stated that he was thinking that whether the units are all in one location or spread throughout the property.

Osborn stated that it was testified to that they would be located within the 5 acres of the 10 acres so that they are centrally located and the roads would be built around them to assist with emergency response vehicles.

Martin stated that what he's saying is that, esthetically; he really doesn't see the difference since they are talking about such a large parcel of property he sees that it's still in the nature of what they want to do of maintaining one residence per 5 acres.

Van Gheluwe stated it isn't one residence.

Lord stated that it is her opinion that this is not included in the scope of this CUP. She stated that putting 8 houses there is a subdivision no matter how you look at it and to her that is a separate issue from this CUP. This is for a dude ranch not 8 homes.

Martin stated that he understands what Lord is saying but for some reason he just feels like they don't really have something that really covers it in the books.

Miller stated that the commission members are not required to make a decision at this time. He stated that they are allowed by the ordinance to go over this and get more information before a decision is made.

Martin moved to table these deliberations to a date specific to give the applicants opportunity to develop an understanding with Oasis Fire District and bring that back to the commission.

Osborn stated that if he does that the public hearing must be reopened for any additional information. She stated the only thing at this point in time that we are postponing is the discussion as a commission. We can require the MOU as part of the conditions of the CUP and not have to reopen the public hearing.

Martin stated that he would like to see this move forward.

Martin moved to approve this CUP with the Directors 2 additional conditions making it a total of 17 conditions.

Fish seconded.

Osborn stated that the commission did not define events.

Martin withdrew his motion temporarily.

Commission consensus was to leave the definition of an event up to the Director of the Land Use and Building Department.

Duerig stated that he is still not comfortable with the housing issue in this CUP. More information is needed.

Martin stated in the best interest of the applicant to withdraw his motion.

Fish seconded.

Motion carried unanimously.

Martin moved to reopen this public hearing to August 21, 2013 to take additional testimony on the housing units and the MOU with the Oasis Fire Department.

Duerig seconded.

Motion carried unanimously.

An Appeal of an administrative decision by John and Tracy Bideganeta for the expansion of grandfather rights for a gravel pit on property with an existing gravel pit in a Agriculture (Ag) Zone. Case Number: ADD-2012-09. The site is located in Section 11, Township 3 South, Range 6 East, B.M. A common means of locating the property is from Sunset Strip turn on to Canyon Creek Road and proceed to Mashburn Road, turn left on Mashburn Road. The Property is located on the right hand side of the road approximately .25 miles.

Christy gave staff report and background.

John Bideganeta is the applicant. He presented the commission and staff with documentation on the research done on this matter.

Christy entered this in to the record as Appeal Applicant Exhibit #1.

Bideganeta stated that he will go step by step regarding the memorandum from staff. He stated that the notice of the neighborhood meeting did not include the time and had they not been proactive in finding the time themselves they may have missed it. He stated in their research they have not been able to find anywhere that the existing gravel pit that this expansion is based on has established as a lawfully non conforming use. He stated that it has been established as a non conforming use but in the ordinance it states that in order to be expanded it must be a lawfully non conforming use. He stated that there is a great detriment to public health and safety and welfare. He stated the greatest complaint regarding this gravel pit is that the dust and noise has made it unbearable to be outside. He stated that it is difficult to breathe. He stated the dust in on vehicles, in homes, in the eyes and it's virtually everywhere. He stated that the noise from the crusher and conveyor is contradictory to a rural agricultural setting. He stated he personally sent photos and complained to the Director of the department about the dust along with several other neighbors as well. He stated that there was not a representative from the county at the neighborhood meeting. He stated that this gravel pit is a 100% expansion of the existing use and the ordinance only allows for 30%. He stated that the other issue that has come to light that Christy pointed out the original site plus any adjacent sites account for approximately 560 acres and 40 acres of gravel pit was only considered on 7/31/13, it was never considered to their knowledge before that date so he does not believe that should be considered at this time as it was not considered for the administrative decision. He stated that they are not watering down the area to control dust as they could have. Bideganeta referred to photos of the dust presented in his exhibit. He stated that he could not find any permits with DEQ that his rock crusher is permitted. He stated that they request this administrative decision be repealed given all of this information.

Martin asked if there was any attempt made to survey the people as to whether or not they had indeed known about the public hearing.

Bideganeta he stated that they did not.

John Hopson is in favor of the appeal. He stated that he is 1,000 feet from the gravel pit. He stated that it was so dusty at times he couldn't open his door. He stated that he cannot understand why they put this pit here when it's nowhere near the original. He stated that he could not believe that there wasn't a representative from the department at the neighborhood meeting. He stated that the neighborhood meeting the user of the pit told them he could not water or maintain the dust and maintain his material.

Calvin Ireland is one of the landowners and is against this appeal. He stated that Bideganeta is extremely wrong on the gravel pit. He stated that it has been in operation since 1968. He stated that it is an undivided property of 1600 plus acres. He stated that they have worked with a number of contractors over the years that have pulled gravel out of that pit. He stated the reason for the distance between the pits is that Robison is a different contractor and uses a different product and this was the right location for that.

Martin stated that he is a little foggy on this gravel pit operation business but what he understands is that when you have approval to expand a gravel pit, we could be in this corner of the room over here and when we're talking about expanding a gravel pit we're talking about expanding that existing gravel pit contiguously, not at the opposite end of the room.

Ireland stated that at the time the gravel pit was established it was the intent that that whole area be used for gravel, not just one portion of it.

Martin stated that what he would have to come back and ask is what was the original acreage involved in the CUP.

Miller stated that there was not a CUP for this gravel pit.

Ireland stated that this was established before there were conditional uses and it has been in continuous use since that time and has never stopped.

Osborn asked how far apart the holes are now.

Ireland stated that they were between 3/8 and 1/2 miles apart. He stated that there are at least 10 gravel pits within a mile of this area.

Martin stated that it seems to him that what they have is that 40 acres of existing pit from old but what we have is an extending city and if that doesn't exist at the time the city expands people don't necessarily, well, they see a gravel pit over there you know a mile away from where they put up a house or something and they figure they're fine. They don't realize its coming right up to their front door.

Ireland states while can't disagree with that he must defend the landowner in saying how do you let your neighbors justify what you do on your own property. He stated that this is why we have zoning laws but when a neighbor starts telling you what you do with your property you no longer own your property. He stated that when it gets to the point where you know more than the people paying the taxes then God help us all.

Raymond Robinson is the other operator of the gravel pit. He stated that they do have a reclamation plan with the state of Idaho that's been on place for over a year. He stated that the grandfather rights were issued on June 29, 2012 and they didn't start working until this last spring so he felt they were legal in starting work. He stated that they constructed a 6 foot berm to help minimize the dust. He stated that they did put water down but they probably could have put more down. He said eventually the pit will be deeper and the dust will be minimized as they work their way down. He stated that the crushing is something that will only happen 30 days out of a year. Not every day.

Martin asked if it rains will the crusher be out of operation.

Robison said that is a very real possibility.

Martin asked if he has exchanged phone numbers with Bideganeta.

Robison said he has not.

Martin stated that he highly recommends it.

Robison stated that he is willing to do whatever it takes to minimize the dust.

Bideganeta rebutted the testimony. He stated that during the neighborhood meeting they talked extensively about dust and they more or less stated that they cannot control the dust because of the product they are trying to make it will plug the crusher. He stated that his wifes family has owned the adjacent property far longer than the Irelands have owned theirs and this operation affects them as well. He stated that the primary complaint with this is the distance between this gravel pit and the existing pit and how this can be considered an expansion if they are .4 miles apart. He stated there has never had a complaint with dust prior to this pit.

Martin stated that if you remember that was my contiguous question with Mr. Ireland.

There was no further testimony.

Osborn closed this public hearing.

Martin stated that he hears both sides and he is of course for providing jobs in the community but not at the necessary expense of established residences. He stated that there is a resolve in here somewhere that could be had.

Duerig stated that he is still having a hard time seeing a new gravel pit so far away from the other and it's hard to consider that an expansion.

Lord moved to reopen this public hearing

Martin seconded.

Lord moved to table this for staff to get more documentation and research on the history of this gravel pit and property and the reclamation plan to September 18, 2013.

Martin seconded.

FCO AND MINUTES

FCO for Case Number: CUP-2013-06

Martin moved to approve

Van Gheluwe seconded.

Motion carried unanimously.

Minutes from July 10, 2013

Van Gheluwe moved to approve.

Martin seconded.

Motion carried unanimously.

Minutes from July 17, 2013

Martin moved to approve

Van Gheluwe seconded.

Motion carried unanimously

INFORMATION ITEMS

Upcoming P&Z Schedule

Christy stated there will be a regularly scheduled meeting on August 21, 2013 and there is a town meeting in Prairie at 1:00 pm on August 28, 2013 at the community center.

MEETING ADJOURNED

Approved

Approved

Patti Osborn

8/21/13

Patti Osborn, Chairperson

Date:

Attest:

Alan Christy

8-21-13

Alan Christy, Director

Date: