

**ELMORE COUNTY  
PLANNING AND ZONING COMMISSION**

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**MINUTES**

**Wednesday, November 18, 2015 at 7:00 pm**

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

**PLEDGE OF ALLEGIANCE**

**PUBLIC HEARINGS**

**Maricarmen Martinez for a Conditional Use Permit for a group childcare facility in the Agriculture Zone and the Mountain Home Area of City Impact. Case Number: CUP-2016-01.** The site is located in Lots 17 – 20, Block 3, Mellen Subdivision. A common way of locating the property is from Interstate 84 take exit 90, stay on Sunset Strip for 3.5 miles, turn right onto E 5<sup>th</sup> North St, turn left onto NW Cedar Ave, site is located on the left at 656 NW Cedar Ave.

Bresnahan gave staff report and background.

Maricarmen Martinez is the applicant. She stated that she did not have anything to add but she thanked the commission and staff for their time.

There was no one signed up to testify. There was no further testimony.

Osborn closed this public hearing.

**Commission action:**

Duerig stated that he assumes the space is adequate for the number of children at the facility.

Bresnahan stated that the fire department signed off on the application.

Blanksma wanted to see in the master site plan that the parking requirements in the ordinance are met.

Duerig moved to approve with the conditions proposed by staff and the additional condition to amend the master site plan to indicating parking.

Blanksma seconded.

Motion carried unanimously.

**Mountain Home Solar 1, LLC for a Conditional Use Permit for a 20 MW solar electrical generating facility in the Light Industry Zone and the Mountain Home Area of City Impact. Case Number: CUP-2015-14.** The site is located in a portion of the E1/2, Section 22, Township 3S, Range 6E, B.M. A common way of locating the property is from Interstate 84 take exit 90, stay on Sunset Strip for 3.5 miles, turn right onto E 5<sup>th</sup> North St, proceed right onto W 5<sup>th</sup> North St, then turn right onto N Haskett St, then turn left onto NW Turner Rd, then turn right onto Sawmill Rd, then turn left onto W 10<sup>th</sup> North St, then turn right onto N 18<sup>th</sup> West St, project site is located on the left.

Bresnahan gave staff report and background.

Oppedyk stated that he was in the area of notification for this project but stated that it would not affect his decision on this either way.

Holland stated that he was in the area of notification for this project but stated that it would not affect his decision on this either way.

The applicants submitted the power point presentation to the commission.

Christy entered this into the record as applicant exhibit # 1.

Richard Gruber is representing the project. He introduced his partners in the project Lance Weinkamer and Joy McClain. He introduced Dan Weitz who owns the property. He stated that the first slide shows the safety precautions used during the construction phase of the project. He stated the second page is the project summary. He stated that DEPCOM Power is the construction, engineering and design firm. He stated that True Green Capitol is doing the financing and will be the long term owner/operator of the project. He stated that they have a signed power purchase agreement with Idaho Power for 20 years. He stated that it is interconnecting to an existing power line that is onsite so there will be no new transmission facilities required. He presented pictures of what a solar array looks like and how they function. He stated that these arrays follow the sun from east to west throughout the day. He stated these are very low maintenance in all aspects. He stated that the height is roughly 7 feet. He described the site layout. He stated that the project will employ both skilled and non-skilled workers. He stated that at its peak the project will range from about 200-300 employees. He stated that laborers will be the majority of those employed during construction along with electricians, equipment operators, and project managers along with administrative staff. He stated that they estimate the project construction to be complete by the end of 2016. He stated that once operations have started it will be remotely monitored 24/7. He stated that there will be weekly site visit to clear any undergrowth. He stated that modules will be washed a few times a year.

Osborn asked what product will be used to control the vegetation.

Gruber stated that once the vegetation is cleared and grubbed there probably won't be a lot of vegetation that they will see growing they will use something that is in line with the guidance of the county.

Osborn stated that once the site is graded and cleared off it may create a dustbowl. She asked what their dust abatement plan will be.

Gruber stated that these projects unlike fossil power plants don't use water but they do require dust abatement during construction so they've discussed using an existing hydrant adjacent to the property with public works. He stated that they plan on purchasing a meter to use during construction.

Lance Weinkamer and Joy McClain were signed up in support but did not wish to testify at this time.

Mark Van Gulk signed up in support but did not wish to testify.

Barbra Bogard signed in as neutral but did not wish to testify.

Eva Schmid signed in as neutral. She stated that she went to the neighborhood meeting and she stated that she does support this. She stated that her major concern is that there needs to be a noise study. She stated that she lived near a transformer in another city and she could not manage to sleep with an open window due to the noise it made. She stated that this project requires transformers. She stated that low frequency is very unnerving for a human being and it travels a long distance. She stated that when she asked about this at the neighborhood meeting she was given a very glib answer and was told not to worry about the noise from this project when living close to the train tracks. She asked the commission if they could ask the developers for local sourcing and not to buy products from China as they stated at their neighborhood meeting.

Al Wintermote signed in as neutral but did not wish to testify.

Larry Jewett signed in as neutral. He stated that he is with the Mountain Home Rural Fire Protection District (the "MHRFPD"). He stated that they don't need a memorandum of understanding for this project but they do have some concerns he would like to address. He stated that they would like to see a perimeter fence to help with litter and grass control within the project. He stated that the MHRFPD would also like to see an all-weather road around the perimeter as well. He stated that he wants the applicants to understand that the MHRFPD will not enter that area to put out fires as that is way beyond their capability.

Don Gust signed in as neutral but did not wish to testify.

Mark Steele signed in as neutral but did not wish to testify.

Julie Steele signed in as neutral. She stated that she is concerned with the noise and thinks it would be a good idea to have a noise study. She asked how they would deal with weed control and if herbicides would be used.

Martha Ralphs signed in as neutral but did not wish to testify.

George Mansfeld signed in as opposed. He stated that he owns property adjacent to this project. He stated that they spent a lot of money on this property when they bought it and they had big plans for it. He stated that if there is a situation where this will be harmful to others it can diminish his property value. He stated that he's concerned about the route that the trucks will take to access this site as he believes there are federal rules pertaining to saving gas and being environmentally friendly.

There was no one else signed up to testify.

Lance Weinkamer and Richard Gruber gave rebuttal.

Weinkamer stated that they have no issue doing a noise study as they have done this on past projects. He stated that he does take exception to the statement that they made a glib comment when asked about the noise because they do care about how this may impact the community. He stated that the ambient noise from the railroad will certainly exceed the noise from the power plant. He stated that you shouldn't hear the humming even from the fence. He stated that it's not the frequency that is the issue it's the decibels. He stated that with the workforce that they do use a local broker who is nationwide but they first are asked to insource within the community. He stated that he is not sure who the panel manufacturer is in Oregon but they are the main driver for the engineering, procurement and construction cost of the project and even one penny per watt DC can make the economic swing pretty significantly. He stated that they will have a 6 foot perimeter fence with a foot of barbed wire at the top, 3 strands angled at 45 degrees which is common for a utility scale PV. He stated that they would take exception to an all season road. He stated that they will put gravel down but their intent is to put compacted native for the exterior access at this point.

Gruber stated they will have folks doing maintenance regarding groundcover. He stated that there isn't a lot of grass cover there but there is a lot of scrub and tumbleweeds that will be taken care of. He stated it's good to let the native grasses come up to protect the soil. He stated that this is a very light touch application that goes along with its industrial zoning. He stated that it produces very little noise and does not produce traffic. He stated that it doesn't create new incremental burdens on the community as far as schools and services. He stated that he was told by Brain Reid of the Mountain Home Fire Department that they would not enter the facility as they are not prepared and if something were to happen they would let it burn out. He stated that the facility is basically glass and steel. He's stated that he's spoken with the Fire Marshall and public works to improve the extension of the road. He stated that there will be traffic created during the construction phase for about 5 months and once they are done the traffic will be minimal.

Miller stated that if the commission has any questions now is the time to ask.

Osborn asked if they had considered revegetating with native grasses that are less volatile and help choke out the potential cheatgrasses and the tumbleweeds.

Weinkamer stated that they absolutely would.

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

**Commission action:**

Duerig moved to approve with conditions of approval as presented by staff with the additional conditions that the applicants conduct a noise study and a monitoring program, with the cooperation of the Idaho Department of Fish and Game, to assess the effects to wildlife resulting from project construction and operation.

Oppedyk seconded.

Osborn asked for a roll call vote:

Zenner: AYE

Fish: AYE

Blanksma: AYE

Oppedyk: AYE

Duerig: AYE

Holland: AYE

Osborn: AYE

Motion carried unanimously.

Osborn called a short recess.

**ANNUAL MEETING**

**Voting of officers for 2016**

Osborn opened nominations.

Duerig nominated Osborn for Chairperson.

Fish seconded.

Osborn closed nominations.

Votes were made by secret ballot and were unanimous for Osborn.

Osborn will remain Chairperson for 2016.

Osborn opened nominations for Vice Chairman.

Osborn nominated Duerig for Vice Chairman.

Oppedyk seconded.

Osborn closed nominations.

Votes were made by secret ballot and were unanimous for Duerig.

Duerig will remain Vice Chairman for 2016.

Phil Miller presentation on ex parte communication.

Miller presented information regarding ex parte communication. He referred to an incident that occurred at a previous meeting where a person wanted to discuss an application with the commission that hadn't come before them yet. He stated this cannot be done. He explained the job of this commission has two parts, the planning part and the making decisions on certain applications part. He stated that the planning part is going through the comprehensive plan and the ordinances and also to make recommendations to the board of county commissioners. He stated that the other part is hearing conditional use permit applications and variances. He stated that those are two entirely different things. He stated that when you're discussing the comprehensive plan and ordinances you are really acting like legislators which means you can talk to people and get input. He stated that it is entirely different when you are dealing with conditional use permits and the reason is that the courts have uniformly decided that when you are applying laws and rules to specific individuals in a specific situation you are acting in a quasi-judicial capacity. He stated that since you are doing that due process requirements of the US Constitution come in to view. He stated that there are a whole list of requirements, most notably the procedure tonight. There were notices that went out to the neighboring land owners and notice published in the newspaper. Notice is part of due process and there is an opportunity for the people to be heard. He stated that due process requires the decision makers be unbiased and impartial meaning you can't have made your mind up prior to the hearing. The Idaho Supreme Court said when you make a decision based upon an ex parte contact you are conducting additional fact finding and it doesn't give everyone that is affected an opportunity to know how you based that decision. He stated that in the context of conditional use permits and variances it's important that a decision be made on what is in your packets and what you hear during the public hearing. He stated that if you have had a conversation or gained any information on a pending application outside of the public hearing the court has said that you have an obligation to go on the record with what that knowledge is, how you heard it and who you heard it from so that it can be determined if that is a violation. He stated that it's really about fairness and openness.

Christy asked about making special trips to go view the site of a pending application.

Miller stated that the Idaho Supreme Court says that it has to be conducted as a public meeting. He stated that it has to be noticed and everyone that wishes to go has to be able to go.

Christy stated that typically this county will not do it because it opens things up for a legal challenge down the road.

Fish asked why they add the legal description to the packet if the commission is not supposed to see it.

Miller stated it's for the public so they can see the site.

**MINUTES**

Minutes from 11-04-2015

Oppedyk moved to approve.

Duerig seconded.

Motion carried unanimously.

**INFORMATION ITEMS**

Upcoming P&Z Schedule

Christy stated that there will be a work session on December 2, 2015. He stated that the board has conducted their first round of deliberations for the appeal for Jim Carrie's CUP. He stated they have set forth conditions for a community water system and 2 acre parcels. He stated that the previous application was asking for individual wells and 1 acre lots and it was denied by the Commission. He stated that the board requested staff and legal counsel get together and draft findings to review and they will sign those at a later date but they have not set a date for that at this time. He stated that the commission does have the option not send conflicting parties to mediation. He stated that on December 16, 2015 there will be 5 appeal hearings for a group that is appealing some administrator decisions.

**MEETING ADJOURNED at 8:32 pm.**



Patti Osborn, Chairperson

12.2.15

Date:



Attest:  
Alan Christy, Director

12/2/15

Date: