

**ELMORE COUNTY
PLANNING AND ZONING COMMISSION**

MINUTES

Wednesday, July 20, 2016 at 7:00 pm

Chairperson Patti Osborn called the meeting to order. Members of the Elmore County Planning and Zoning Commission present were Vice Chairman K.C. Duerig, Sue Fish and Dave Holland. Also present were Attorney of record Phil Miller, Director Alan Christy and staff members Beth Bresnahan and Tell Riley.

PLEDGE OF ALLEGIANCE

PUBLIC HEARINGS

Osborn stated that that she would like to stand for a motion to change the order of the public hearings for **Case Number: CUP-2016-03** be the first item heard.

Duerig moved to approve
Holland seconded.
Motion carried unanimously.

Osborn stated that she would be recusing herself from this hearing as she has stated on the record at a previous meeting that she is an employee of Idaho Power and to avoid any potential conflict of interest Duerig will step in.

Idaho Power for a Conditional Use Permit for a substation in the Light Industrial Zone and Mountain Home Area of City Impact. Case Number: CUP-2016-03. The site is located in a portion of the W1/2, Section 22, Township 3 South, Range 6 East, B.M. A common way of locating the property is from US 30 head west on E 5th St North, road changes to W 5th St North, then north on N Haskett St, then west on NW Turner Rd, then north on NW Sawmill Rd, then west on W 10th St North and just past the intersection of N 18th West.

Bresnahan gave staff report and background.

Jeff Maffuccio is with Idaho Power. He presented two large diagrams for the record.

Christy entered these into the record as Applicant Exhibits #s 1 and 2.

Maffuccio stated that the purpose of this station is to transfer the power from the solar farm project approved in December 2015 on to the Idaho Power grid. He stated that Idaho Power is required to take the electricity produced from these projects through federal regulations. He stated that part of this will be to propose a control building with computers to monitor the power

quality and voltage levels appropriate to provide the power load required to go on to the system. He stated the substation will be 150x150 and fenced. He stated there will be security gates along the outside for Idaho Power vehicles to access as well as one gate between both substations. He stated that the station will be placed within a short proximity to the transmission lines so it will be a short connection. He stated that they are working with the landowner and solar company to finalize an easement for the station. He stated that they will utilize that same access as the solar developer. He stated that they will meet all permitting requirements set forth by all local and federal agencies.

Holland asked about any noise the substation may create.

Maffuccio stated that this substation is a little unique. He stated that with any substation they are required to abide by county, state and federal standards. He stated that with this substation there are no transmission level transformers. He stated this is about 120 volts which is similar to what you see in a residential area so any noise would be minimal. He stated that he has done some research and he stated the noise level is approximately 40-45 decibels. He stated that it would be very minimal from the fence boundary.

Jackie Payne signed up in support. She stated that she has two properties across from this area and she was curious about how far this is from the railroad tracks and Hwy 30.

George Mansfield signed in as neutral. He stated that he has property to the north of this project. He wanted to know where this was going to be located. He stated that he wanted to know if it was high voltage. He stated that he wanted to know about fencing around the area.

Ursula Schmidt signed in as opposed. She presented information to the Director.

Christy entered this into the record as Opposed Exhibit #1.

Schmidt stated that the noise levels mentioned range somewhere between an air conditioner and a highway. She stated that she has driven to the area and it is very flat so there is nothing to stop the sound from carrying. She stated that there are ways to make a transformer quieter. She stated that she wanted to know where the transformers are going to be located. She suggested barrier be put in to mitigate the noise that faces the area where there are homes. She stated that she is concerned about water usage and how the facility will be cleaned and if chemicals will be used in the process.

Eva Schmidt signed in as opposed. She stated that it is very important to have an engineer look at the project. She stated that it is ridiculous that one project was approved without the other being present. She stated that the noise is a huge issue. She stated that she wants the transformers to be less than 40 decibels. She stated that she and her neighbors would appreciate a demonstration of the noise that the facility will make.

There was not further testimony.

Maffuccio gave his rebuttal to the public testimony. He stated this transformer will be on the south end of the solar site adjacent to the solar farm substation. He stated this project will have

8 foot fencing with the top being security wire and he believes the solar farm has fencing similar to this. He stated that the purpose of this station is for the solar farm to bring the voltage up through their transformers to a level that is appropriate for the transmission line to carry the power load. He stated the transmission lines are rated at 69 kV. He stated that he believes that he is probably a quarter mile from the railroad. He stated that this site is set back 67 feet from the south boundary of the solar farm property. He stated that the transformer that they are going to use is 120 volt and it is a residential type transformer. He stated that the older ones can make some noise but new transformers whether in a box or on a pole are pretty much silent. He stated that these facilities aren't cleaned and that they are an open air type facility. He stated that everything is coated and protected from rust and corrosion.

There was no further testimony.

Duerig closed this public hearing.

Commission action:

Duerig read all 12 standards and staff comments from staff report aloud.

Holland moved to approve as it meets all the required standards as set forth in the staff report.

Fish seconded.

Motion carried unanimously.

Osborn returned to the meeting.

Osborn called a 5 minute recess.

Elmore Development, LLC (Mirazim Shakoori) for a Zoning Change from Agriculture to Light Industrial and an Amendment to the Comprehensive Plan. Case Number: REZ-2016-01. The site is located in portions of Section 7 and 8, Township 4 South, Range 7 East, B.M. A common way of locating the property is from I-84 head east, take exit 90, turn right on Old Oregon Trail Rd. for approximately 2 miles.

Osborn stated for the record that she owns property that is within ½ mile of this project. She stated that this will not affect her decision on this.

Miller stated for the record that his law firm has done business with the applicant so he recused himself from advising the commission in this matter.

Christy gave staff report and background.

Bonnie Layton is representing the applicant. She stated that they are requesting a comprehensive plan amendment to the future land use map. She stated that this area is currently designated C2 which is heavy commercial and they are requesting a change in the future land use map to M1 which is light industrial. She stated that subsequent to that they would be requesting and zone change from agricultural to light industrial. She stated that currently in Elmore County there are only a few locations that are zoned light industrial and she

stated this property would be a good area for light industry opportunities because of the good access and solid built roads, power and water. She stated this property has potential in the future to possibly provide a spur from the mainline. She stated that there is no specific business in mind for this particular property but she believes that there are some opportunities to develop this in a way that would bring jobs to the community.

Holland asked if having this designation change would open this area up to more desirable projects.

Layton stated that she believes that it would. She stated that the light industrial zone allows for a light industrial subdivision which could be appealing to a light industrial developer. She stated in speaking with site selectors that have visited the area they have stated that our area is a great spot for a distribution center or some sort of trucking facility or even manufacturing would be good.

Duerig asked what the one homeowner that lives in this area thinks about this project.

Layton stated that they have met with the homeowner in the neighborhood meetings that they had. She stated that she does not know their specific opinion. She stated that they have discussed what the potentials are for the property when it's rezoned.

Jackie Payne signed up in support but did not wish to testify.

Ursula Schmidt signed up in support. She stated that she didn't find this on the map and she wanted to know how far south it was and if the industrial zoning starts running into the Snake River Basin.

Dallas Schneider signed up as neutral. He stated that he owns a home in this area. He stated that his home is the one designated on the map. He stated that he has some questions and he raised them at the two neighborhood meetings and he is still confused and is not really sure of the answers to these questions. He asked if there were a date when this rezone to C2 in the future charts could possibly happen.

Christy stated that the county has adopted a comprehensive plan and with that there are a series of maps and map number 4 is the future land use map. That map has designations for what property can be in the future. He stated this area currently has a commercial or C2 designation to so someone could come in with a rezone application to commercial at any time.

Schneider stated that he would like to know exactly what jobs would be brought to area as a result of this rezone. He stated as a neighbor he would have to ask the commission to put themselves in his position and ask if they would really want a trucking facility beside their home. He stated that conditional use permits were mentioned. He asked if a CUP could be used for this as opposed to a total rezone. He stated that if this is approved he is concerned that road would not hold up in the event something like a trucking facility were approved. He asked what the probability of that entire area being annexed into the city if it becomes an industrial zone.

Christy stated there was no one signed up as opposed to this application.

Layton gave her rebuttal to the public testimony. She stated that they would comply with all state and federal regulations as they work with all of the agencies. She stated that those standards are set and we would anticipate that they would have to comply with all of those especially at the time of obtaining building permits.

Layton stated that she met with Luis Lasuen from the Mountain Home Highway District regarding this project she said he told her that this was a great location for this as this road is better than the other areas in the county where light industry is allowed. She stated that Old Oregon Trail Road has a very good base and it is a much better option.

Layton stated that the property is a few miles from the Mountain Home city limits so the potential for annexation is years away. She stated this property is not in the area of city impact.

Layton stated that regarding the use of the property it's hard to give an example. She stated that it was explained to the neighbor's at both meetings to take a look at the future land use map and it was also discussed that this was part of a process of the comprehensive plan and there have been opportunities in this area long before this application was submitted. She stated that there were hearings held in various areas of the county for citizen to provide input on what they would like to see in their area and how the county should develop. She stated that she believes that this is in compliance with the comprehensive plan and the future land use amendment complies as well.

Christy asked if the owner would be opposed to a landscaping or set back requirement to that property that is kind of donut holed there as part of any development.

Layton stated that she does not think the developer have an issue with that.

Osborn asked if the development agreement would be something that the owner would be opposed to.

Layton stated that he would not be opposed to that.

Osborn wanted to clarify that the water rights for this property were agriculturally based at this point in time.

Layton stated that was correct.

Osborn closed this public hearing.

Osborn stated the commission is to make a recommendation to the Board of County Commissioners for or against this application.

Duerig asked who a development agreement would be between.

Christy stated that it would be the developer and the county.

Duerig asked if the property owner would be the developer or if someone else would come in and develop this property.

Osborn asked the commission to reopen this public hearing to have Duerig's question answered.

Commission consensus was to reopen the public hearing.

Osborn reopened this public hearing.

Layton stated that when she worked for the city of Mountain Home they had an application to annex and rezone a piece of property. She stated that at that time they did an annexation agreement, basically a development agreement that was recorded with a title. She stated that does protect the owner of the property as well as future developers so that when a title search is done they are able to see what restrictions and requirements are in place. She stated any development agreement could be worked out with the property owner and the county and it could be recorded on the title.

Osborn closed this public hearing.

Commission action

Duerig moved to recommend approval to the Board of County Commissioners for the project with the condition to recommend all future development projects submit a Development Agreement with Elmore County.

Holland seconded.

Motion carried unanimously.

Frederick Watkins for an Appeal of administrative decision for the requirement of an accessory dwelling unit application in the Agriculture Zone. Case Number: ADD-2016-012. The site is located in Lot 5, Riverside Acreage Subdivision. A common way of locating the property is from Interstate 84 take exit 112 and head south on Highway 78 to Old Highway 30. Head east on Old Highway 30 to intersection of S Humphreys Road and turn right. Head south on S Humphreys Road to the intersection of W. Osprey St. and turn left. Head east on W. Osprey St. and the site is on the right side of the road.

Miller rejoined the public hearing.

Christy gave staff report and background.

Tell Riley provided the commission members with a more clear set of building plans. He showed the commission how it was determined this structure was considered an accessory dwelling.

Frederick Watkins is the applicant. He stated that the water heater is part of the mechanical system and is not designed for that little unit by itself. He stated that there is radiant floor heating throughout the house. He stated that the heat pumps are there for the air conditioning and that's is basically it. He stated that no place on his plan calculations is there a stove in that unit. He

stated that there is a hot plate that is plugged in and the code says clearly that all kitchens would have to have permanent appliances and those are not permanent appliances. He stated that there is not a 220 volt outlet for a stove which is required. He stated that per the definition of the code this is not a dwelling unit. He stated that the CCR's for the lot he bought states only a single family dwelling is allowed. He stated that that any dwelling unit must have permanent cooking, sanitation and sleeping facilities and this does not. He stated that he has two ladies that live with him that are in their 80's and 90's that have a difficult time making it to the restroom so he will have a commercial washer to clean the linen. He stated that the restrooms are to be handicap approved and listed. He stated that he does not have two dwelling units. He stated that the carport is part of the dwelling.

Duerig wanted to state the commission has no comment on CCR's.

F. Watkins stated that CCR's state that this subdivision is zoned that way.

Osborn stated that it is not zoned that way and those requirements are based on the platting of the subdivision. She stated that it has nothing to do with this commission.

F. Watkins stated that he is trying to comply so that he is not sued by anyone living in the subdivision.

Teanjai Watkins is the applicant's wife. She stated that this is one dwelling. She stated that if it is two dwellings it must be hardwired for that and this not.

There were no further questions.

Osborn closed this public hearing.

Holland had a question for the Director.

Osborn reopened the public hearing.

Holland asked Christy about the validity of the statements as they pertain to the code.

Christy stated that his determination and what he has provided is unchanged. He stated that he can ask the building official any questions about this as well.

Miller asked if Riley could give a specific reason why this is two separate dwellings.

Riley stated that it matches the definition that is in the county ordinance and has been implemented on several other applications similar to this.

Miller asked if that were any structure or portion thereof providing independent living facilities for one family including provisions for living, sleeping, eating, cooking and sanitation.

Riley stated that was correct. He stated that is the direct definition of a dwelling unit.

Miller stated that your conclusion is what is in the plans although it doesn't include everything it has enough to meet that definition.

Riley stated that the dwelling unit could feasibly be rented out.

Christy stated that this is very common to have facilities like this in the Pine Featherville area that are recreational with renting opportunities.

Miller asked if it would change if the carport in the middle were eliminated and replaced with a common wall.

Christy stated that he would not speculate on any future plans as it is not the job of staff to draw building plans for applicants. He stated applicants submit drawing and staff reviews them to code.

Fish stated that the applicant said that there is no kitchen or stove other than what can be plugged in.

Riley stated that the definition in the residential building code is *"kitchen shall meet an area used or designated to be used for the preparation of food"*.

Fish stated that she can do that in her garage.

Riley stated that under the sanitation section of the residential code it states *"each dwelling unit shall be provided a kitchen area and every kitchen area shall be provided with a sink"*.

Riley stated that he is reading from the International Residential Code, 2012 Edition which was adopted by Elmore County on December 8, 2014 under Resolution No. 561-14.

F. Watkins asked Riley to read the definitions for a dwelling unit.

"Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation."

Watkins stated that there is not permanent facility. He stated that a 110 volt plug and it is not a permanent facility as it can be picked up and moved. He stated that there is only one dwelling unit.

Osborn closed the public hearing.

T. Watkins asked to speak.

Osborn reopened the public hearing.

T. Watkins stated that she does not agree with Riley stating they have a kitchen because it is a hot plate and can be moved. She read from the email she stated she received from Christy with some definitions for dwelling units. She presented the email for the record.

Christy entered this into the record as Applicant Exhibit # 1.

Osborn closed this public hearing.

Commission action

Duerig stated that there is a discrepancy on the description of a dwelling unit. He stated that one is referenced in the email as permanent provisions and the one in the packet says including provisions it does not say permanent. He asked which one was the correct definition.

Miller stated that the ordinance itself doesn't include the word permanent but the IRC (International Residential Code) does include the word permanent.

Miller read the definition from the IRC again for a dwelling.

"DWELLING OR DWELLING UNIT: Any structure, or portion thereof, providing independent living facilities for one "family" as herein defined, including provisions for living, sleeping, eating, cooking, and sanitation."

Duerig moved to uphold the decision of the Director and advise the applicant to revise the building plans to include one dwelling only or complete and submit an assessor's dwelling unit application.

Holland seconded.

Motion carried 3-1 with Fish opposing.

Fish stated that she does not see this as an assessor's dwelling she sees it as a suite for in-laws.

INFORMATION ITEMS

Upcoming P & Z Schedule

Christy stated the next regularly scheduled meeting is on August 17, 2016. He stated that there is a recess for Labor Day and then another regularly scheduled meeting on September 21, 2016.

MEETING ADJOURN at 9:06 p.m.

Approved

Approved



Patti Osborn, Chairperson



Date:

Attest:



Alan Christy, Director



Date: