

**ELMORE COUNTY
PLANNING AND ZONING COMMISSION**

MINUTES

Wednesday, August 1, 2018 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, Ed Oppedyk, Sue Fish and Jeff Blanksma. Also present were Attorney of Record Philip Miller, Director Beth Bresnahan and staff members Diana Clark and Kacey Ramsauer.

PLEDGE OF ALLEGIANCE

PUBLIC HEARINGS

Noe Olmos for a Conditional Use Permit to subdivide a 7.5-acre parcel into two 3.75 acre parcels; the property is zoned Agriculture. Case Number: CUP-2018-04. The site is located in Tipanuk Farms Subdivision 3, Lot 11, Block 2. A common way of locating the property is to head west on the Old Oregon Trail-W/US-30 to Ditto Creek Road for 7.4 miles, turn right onto Ditto Creek Road-old Oregon Trail Hwy for approximately 6.9 miles. Property is located on corner of Faulkner Ave and Ditto Creek Road.

Noe Olmos is the applicant. He stated that he is requesting to subdivide this property to make two residential lots and build one home on each lot.

Clark gave staff report and background.

Rex Kiesser signed up in support. He stated that he lives in this area has no problem with the applicant subdividing his property as there are other smaller lots in the area that have homes on them.

Dustin Kiesser signed up in support. He stated that he has no problem with what the applicant is doing.

Connie Kiesser signed up in support but did not wish to testify.

No one signed up in neutral.

Kristine Malota signed up in opposition. She stated that she bought her home in the area in 1974 and she has 5 acres. She stated that the area is a farming area and the land should not be subdivided anymore as it will set a precedent and more will continue to subdivide and drill more wells and there isn't enough water to do so.

John Malota signed up in opposition. He stated that he lives in this area and is concerned about allowing this property to be subdivided as it will bring in more people who will do that same and there isn't enough water to go around. He stated that those lots were designed to be 5 acres or better to protect the aquifer. He stated that this isn't a subdivision, it's called Tipanuk Farms because it is meant to be rural.

There was no one else signed up to testify.

The applicant did not wish to rebut the testimony.

Osborn closed this public hearing.

Commission action:

Duerig stated that in looking at the staff report there are numerous parcels that are close to the applicants' land that are less than 3 acres so there shouldn't be any concern with it being reduced below 5 acres.

Duerig moved to approve with the correction made by Clark in the staff report.

Oppedyk seconded.

Motion carried unanimously.

Mike Mobley for a Conditional Use Permit to conduct a tow yard business, a mechanical repair shop, and temporary storage for towed and impounded vehicles; the property is zoned Agriculture. Case Number: CUP-2018-05. The site is located at 2316 NE Beaman Street, Section 12, Township 3 South, Range 6 East. A common way of locating the property is to head North on American Legion Boulevard, turn left onto N. 18th E. for approximately 2.5 miles, turn left onto NE Beaman St. The property is located on the right.

Mike Mobley is the applicant. He stated that he has been in operation on his property for about 4 years now. He stated that he picks up cars when called for the by state, county and city. He stated that he keeps them in an impound yard on his property for no more than 30 days. He stated that he has room on the lot for about 10 cars. He stated that he does light work out of the shop on the property. He stated that there is no heavy line mechanic work done there. He stated that they catch all of the fluids and haul them out to a proper disposal facility. He stated that he was under the assumption he was good to operate with permission from the previous Director of the Land Use and Building Department Alan Christy but it was not done correctly so he is now trying to correct that and obtain proper permitting. He stated that his business doesn't generate excessive traffic. He stated that the cars are parked behind a 6-foot fence. He stated that he will adhere to all of the conditions placed on the permit.

Miller asked if this was a retail repair shop.

Mobley stated that he does do it for money but mostly just friends and family. He stated that the tow business is mainly what he is doing. He stated that he has a one bay shop.

Clark gave staff report and background.

Al Porter signed up in opposition. He stated that he lives down the road from this property. He stated that is zoned agricultural and residential and this type of business does not belong in this area. He stated that he has noticed the increase in activity from his business over the past 4 years and the vehicles located on the back of the property are an eyesore. He stated that the biggest potential problem could be the contamination of the aquifer. He stated that there are many places commercially zoned in Elmore County that will allow for this.

Jeff Achenbach is signed in as opposed. He lives in area of this business. He stated that he is a degreed geologist. He wanted to know if there have been any studies regarding public health and the environment regarding this type of business in a residential area. He stated that this property is sitting on the Mountain Home Aquifer Recharge Area. He stated that the fact he's been running this business for many years means nothing as it can take many years to see any damage to the aquifer. He asked if the Summerwind Subdivision water users were notified of this as required. He stated that there are chemicals used in this type of business that can be carcinogenic and do not belong in the water supply. He stated that if there is a spill what would the response and recovery plan be? He asked what kind of insurance policy does the applicant carry and who would be responsible as any good lawyer would take such an incident to court and sue the applicant, Elmore County and the individuals on this Planning and Zoning Commission. He stated that this should not be allowed to continue.

Shigeki Shoemaker signed in as opposed. He stated that he is the licensed water operator for the Summerwind Subdivision which is next to the applicant's property. He stated that he shares the same concerns as the those stated in previous testimony. He stated that he has a waiver through the Department of Environmental Quality (DEQ) to have the water tested every 5 years for their water association. He stated that a question asked by DEQ is if there are any businesses in the area. He stated that this is concerning as it may cause the waiver for testing to be pulled and be required yearly and that will become quite costly. He stated that he has a big responsibility to ensure the safety of the water and this type of business could contaminate it.

Osborn asked what the cost of testing the water is.

Shoemaker stated that it is approximately \$2,500 to \$3,500 dollars.

Nancy Thompson signed up in opposition to the project. She stated that she is concerned with possible contamination to her private well. She stated that this type of business is not appropriate for a residential area.

Fred Dimick signed up in opposition. He stated that he lives near the applicant and also where Idaho Power installed a 230 kv powerline above his home and that has already decreased his property value. He stated that his well is the only thing on his property of value at this point. He asked if any of the members of the Planning and Zoning Commission live close to the applicant's property.

John Sawyer signed up in opposition. He stated that he agrees with what others have testified to. He stated that in 2016 the applicants shop area flooded so if fluids are being collected they can be spilled with the flood waters coming in to the area.

Curtis Viall signed up in opposition. He stated that he is concerned about the potential for increased traffic. He stated that he is concerned that it could potentially be an eyesore. He stated that he is also concerned about the storage of the vehicles and how long they will be on site. He stated that this is a rural area and that's why the residents purchased property out there. He stated that this could set a precedent to allow more of this type of business in the area and that is not what anyone wants living in the area.

Jim Durham signed in as opposed but did not wish to speak.

Jay Barnett signed up in opposition. He stated that he lives near the applicant's property and directly across from a wrecking yard that has been there for many years and its an eyesore. He stated that the residents have a nice lifestyle out there and this type of operation doesn't fit in with that lifestyle.

Connie Clark signed up in opposition. She stated that she is a real estate agent in this area and she gets many requests to live in this area mostly because of the nice water and the shallow wells. She stated that there are many children there as well as bus stops and this could be very dangerous. She stated that it is an eyesore and the fence is not sufficient to hide much from public view.

Mike Mobley gave his rebuttal to the testimony. He stated that he said that the impound yard would only hold a maximum of 10 cars and maybe a few over by the shop. He stated that the area is all concrete and there is a 10-foot approach on each side of the shop and there is no oil on the concrete at all. He stated that fluids are drained prior to bringing them into his shop. He stated that in 2016 the flooding on his property was due to culvert being plugged up. He stated that he unplugged it. He stated that the shop is clean and he welcomes anyone that wants to come out and take a look.

Osborn asked what asked what amount of time the vehicles would generally be there.

Mobley stated at the most 30 days.

Miller asked how many tow trucks he had.

Mobley stated that he has two wreckers. He stated that he has no plans for expansion at all.

Duerig asked how many calls he gets per week to pick up vehicles.

Mobley stated it was about 2-3.

There were no further questions.

Osborn closed this public hearing.

Commission action:

Duerig stated the time limits for the cars being onsite as outlined in the staff report should be implemented into the conditions if approved. He stated that there are multiple vehicles parked on properties in the area surrounding this property that can leak into the ground at any time so the applicant bringing cars in and out isn't much different.

Fish asked why the previous Director of the Land Use and Building Department told the applicant he didn't need any approvals from the county.

Bresnahan stated that in 2015 the county ordinance did not allow for tow yards so it is not understood why he told Mobley that he could operate.

Miller stated that it's impossible to know why the previous Director did that but if he did in error the county can now go ahead and require the proper permitting for this now.

Blanksma stated he does not think this application meets condition number 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 or condition number 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. He stated that if approved he agrees with the conditions Duerig stated should be added.

Osborn stated that her one area of concern is the water at Summerwind Subdivision and the potential change in the waiver for their water testing.

Duerig stated that the sanitary survey does include asking for changes if there something that may impact that area but it wouldn't necessarily do away with their waiver.

Osborn stated that in the staff report it stated that there was a complaint made to staff regarding the applicant running this business in the 4 years it has been in operation. She asked if the complaint was made by a citizen or by an employee of the county.

Clark stated that to her understanding it was a county employee.

Osborn stated that there has been a lot of time for the public to come forward with their concerns about this and no one has.

Fish asked how far out the mailing list goes out to notify surrounding property owners of the public hearing.

Bresnahan stated that it is 300 feet.

Fish stated that many of the people in attendance tonight are not on that list so it shows the concern and how many this could potentially affect.

Osborn stated that this commission needs to determine if this meets all 11 standards.

1. Does the proposed use in fact constitute a Conditional Use as determined in Ordinance Table 7-2-26 (B), Elmore county Land Use Table, as contained in this Ordinance?

The Commission voted 5-0 that the Application meets this standard.

2. Is the proposed use in harmony with and in accordance with the Elmore County Comprehensive Plan ("Plan") and this Ordinance (Title 7)?

Blanksma, Oppedyk and Osborn voted that the Application meets this standard. Fish and Duerig voted neutral stating that they are on the fence as to whether the Application meets this standard or not.

3. Does the proposed use comply with the purpose statement of the applicable base zone of Ordinance Section 7-2-5 and with the specific use standards as set forth in this Chapter?

The Commission voted 5-0 that the Application meets this standard.

4. Does the proposed use comply with all applicable County Ordinances?

The Commission voted 5-0 that the Application meets this standard with an additional condition that a 10 ft. fence be built on the property.

5. Does the proposed use comply with all applicable State and Federal regulations?

The Commission voted 5-0 that the Application meets this standard.

6. Is the proposed use 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; or will such use change the essential character of said area?

Blanksma, Oppedyk, Osborn and Duerig voted the Application does not meet this standard with Fish voting neutral as she was on the fence as to whether the Application meets this standard or not. The Commission could not determine how the Applicant could comply with this standard.

7. Will the proposed use be hazardous or disturbing to existing neighboring uses or impede their normal development?

The Commission voted 5-0 that the Application meets this standard.

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

The Commission voted 5-0 that the Application meets this standard.

9. Will the proposed use create excessive additional requirements at public cost for public facilities and services and will the proposed use be detrimental to the economic welfare of the County?

The Commission voted 5-0 that the Application meets this standard.

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.

The Commission voted 5-0 that the Application meets this standard.

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

The Commission voted 5-0 that the Application meets this standard.

Blanksma moved to deny the application as it does not meet all standards for approval.

Duerig seconded.

Osborn took a roll call vote:

Duerig: AYE

Blanksma: AYE

Fish: AYE

Oppedyk: AYE

Osborn: AYE

Motion carries unanimously.

MINUTES

Minutes from June 6, 2018

Duerig moved to approve.

Oppedyk seconded.

Motion carried unanimously.

INFORMATION ITEMS

Upcoming P & Z Schedule

Bresnahan stated that there is no meeting scheduled for September 5, 2018 but that she would like to schedule a meeting that evening as she will not be available for the September 19, 2018 and would like to cancel that meeting. She stated that she would like to schedule this so that the FCOs for tonight's meeting can be signed before October. She stated that many things that

Approved

Approved

would have come before the commission in the past are now administrative it may be a good idea when discussing by-laws that they go to one meeting monthly.

Commission consensus was to schedule a meeting for September 5, 2018 and to cancel the September 19, 2018 meeting.

MEETING ADJOURNED at 8:43 p.m.



Patti Osborn, Chairperson



Date:



Attest: Beth Bresnahan, Director



Date: