

WESTON COUNTY PLANNING & ZONING COMMISSION MEETING

AGENDA

THURSDAY, MARCH 17, 2011

6:00PM

WESTON COUNTY COURTHOUSE

This is a regularly scheduled meeting of the Weston County Planning & Zoning Commission, held the 3rd Thursday of every month.

Commission Members: Rick Dunford, Mike Turner, Joe Sandrini, Jim Varner, Jerry Varner

Staff: Ray Pacheco, Planning Coordinator

Call to order: 6:00pm

Roll call: All Commissioners were present. Also present were all Board of Commissioner members.

This meeting was held in the courtroom of District Court because the Commission was notified that a large group of residents would be present. The group never attended.

Approval of minutes: (February 17, 2011)

Motion: Sandrini Second: Jerry Varner Vote: 4-0 approved,
Jim Varner abstained because he was not present at the meeting

Public Comment: *This refers to comments, questions and/or concerns not on the agenda*

The Chairman presented a document that he received from a citizens group of the county, who claim that this document should be the Weston County Land Use Plan as written on June 17, 2003. The Chairman explained the content of the document; which contains a Preamble, Introduction, History of the county, comments on water, Community Services and Facilities, a Summary and seven pages of definitions about property rights. He said that a land use plan gives a community direction on what can or cannot be done on properties and he said that this document does not give direction on what to do with lands in the county for the present or future. He said that after speaking to previous Commissioners, the document was never officially submitted to the Planning & Zoning Commission.

Mr. Sandrini who had just received a copy of the document said that he would like to review the document prior to making any decision on what to do with it. Mr. Jerry Varner agreed with Mr. Sandrini that he needed time to review the document. Mr. Jim Varner said that it was the first time that he had seen it too. Mr. Turner said that the document does not propose any regulations, so he did not understand its intent since there are no proposals within it.

The Chairman mentioned that everyone had a copy of the state statutes regarding the requirement of a land use plan, the existence and importance of the Planning & Zoning Commission and their duties and authority in regards to planning.

After granting time for the Commission to review the citizen's document and land use planning, the Chairman asked the Commission if they had any comments. Mr. Sandrini said that the document does not appear to be written in accordance with state statute. He said that what was written in 2003 may or may not be applicable in 2011. He said that it should be considered as any other input that would be given from anyone else in the public and that once the county gets to the point of revising the land use plan this document should be considered with everyone else's comments and not separately. The Chairman asked if the document had been reviewed by the county attorney. Jerry Varner said that he was at some of the early meetings of the development of this proposed land use plan document.

Mr. Pacheco said that according to the previous county clerk, the Board of Commissioners at the time directed the Commission to revise the county's land use plan. There was a committee put together by the Commission but at some point the Commission backed away from the project as did the committee that was formed. When this happened, the group who created the planning document decided to move forward without the help or supervision of the Commission and then created the document that is before the Commission tonight. He said that once the document was created, the Commission at the time did nothing with it and so for six years the document was not discussed until two years ago when this citizens group brought it up to the Board for their consideration, which was about the time that Mr. Pacheco was hired by the county. It was explained that no one on the Board or the Commission were present during the time of the creation of this document. Mr. Pacheco said that by statute, all land use plans must meet a certain criteria and this document does not meet that criterion. Mr. Sandrini said that the document should be considered at a later date when we actually do revise the land use plan. The Chairman asked if the Commission would like to review this at their next meeting. Mr. Sandrini said no, it is just public input. He said that the Commission should not consider the document as a plan since it is not in accordance to state statute. The Varners said they would like more time to review the document. Jerry Varner said he would like to see the original copy of the document, since this edition says that it is a revised document.

The Chairman asked the Commission to make a decision on the future of the document. Mr. Turner said that it does not state anything that indicates it is a plan of any kind. Mr. Pacheco said that he understood Mr. Sandrini to say that it isn't a land use plan, so why take action on it or forward it to the Board at all; it is merely a thought from a group of citizens. Mr. Sandrini made a motion not to forward it to the Board since it does not meet the requirements of a land use plan. Mr. Jerry Varner seconded the motion. All supported the motion 5-0.

At the end of the meeting, a gentleman (Mike) gave the Commission a copy of a House resolution regarding the protection of property rights. The resolution was reviewed by the state legislatures but wasn't approved. The context of the document reiterates the significance of property rights as defined in the U.S. constitution but it is not specific to Wyoming or to Weston County.

Old Business:

The Chairman mentioned that HB0063 and SF0055 were just given to everyone for their review and that these new statutes are an addition to subdivision statutes. He asked the Commission to review the documents in order to consider how they should be incorporated into our proposed subdivision regulations. Mr. Pacheco gave an overview of the intent of the two new statutes. He said one requires "a report submitted by the subdivider demonstrating the safety and adequacy of the water supply system...at a minimum, the following shall (be) addressed:

List of all surface and groundwater rights which will be used or which will likely be affected...Plans for the mitigation of water right conflicts..."

The Commission asked if this statute applies if someone (a developer) does not propose individual wells. Mr. Pacheco said that this statute needs to be reviewed and considered by the Commission and the Board and how they will or will not fit into the subdivision regulations.

The next statute discusses the requirement of a subdivider to fence his property when adjacent to undeveloped properties.

❖ S.I.A.

The Chairman mentioned that the Board of Commissioners has asked the Commission to review this document further to determine where the "shalls" and "mays" need to be the document. Mr. Sandrini explained that he was at the last Board meeting and their main point of concern was the use of *shall* or *may* when it comes to requiring the county engineer to commit to a certain level of inspections. He said that in some places the shalls must remain because in most places, replacing shall with may would lessen the integrity of the document. He said that in sections 10, 11 and 12 of page 3 the Commission needs to decide which shalls should be replaced with mays. Mr. Pacheco said that the Commission decided at their last meeting to forward this to the Board. When the Board reviewed it at their meeting the previous week, they wanted the Commission to decide on the use of shall vs. may. He said that if the word *shall* is replaced with *may* in too many places in the document, the document will be weakened. He said we really need to be careful in which areas we commit the county to inspecting a development and where we make it optional if we can actually have that kind of flexibility. He related his conversation with Jerry Hunt and how Jerry said that he would have to really think about the level of commitment he could give the county and that it would probably be one of his employees doing the work and not always him. He said it would be possible to inspect subdivisions but he would have to get back to us on the details.

Mr. Pacheco said that he would go back and make changes as he sees fit and put the shalls where he thinks they belong, but if the Commission members had any input, they should contact Mr. Pacheco prior to the next meeting. Mr. Sandrini said that he remembers the Board placing importance on the final inspection but the intermediate inspections he remembers them not being favorable in the eyes of the board. Mr. Tom Bruce came forward and brought up some concerns that he asked the Commission to remove and/or edit. He said he wants the document to be simple and easy to work with. He asked that Section 6, Intermediate Acceptance be removed. The next sections that he wants

removed are (b) and (d) on page 5. Mr. Bruce also asked for changes to Section 7 (3) on page 6 and (4; a, b and c) on pages 6 and 7. He also asked that Section 7 (5) (b) and Section 8 (2) be removed from page 8. He included changing Section 5 (4) on page 3.

Marty Ertman asked if the county attorney has looked at this document, and the answer is yes. Jerry Shepperson questioned the time period that a developer would have to wait to get improvements inspected and reviewed/approved by the county engineer. Lenard Seeley asked why this agreement is necessary if the information is part of state statute and addressed in the subdivision regulations. It was explained that the Agreement is not addressed in state statute but is a requirement that has existed in the county's regulations from the very beginning.

Mr. Pacheco said this agreement is specific to a particular subdivision and the improvements that are going into that subdivision. This agreement is a way for the county to hold the developer to improvements he has committed to as part of the approval of his subdivision. He said that the county's current regulations are stronger than what the state requires counties to comply with. He said by law, counties can be more restrictive. Mr. Pacheco said that our current regulations require a ten day period of notification from the developer to the county engineer to inspect subdivision improvements. Mr. Pacheco gave the example of Gideon Dixon and how he wanted his bond released for a subdivision he did prior to Mr. Pacheco's arrival. Mr. Dixon came in one day and asked for his bond, and Mr. Pacheco asked when it expired and no one knew. Also, no one knew if the improvements had ever been inspected because there was no record that they had been looked at. Mr. Pacheco said that situation is what initiated the discussion on improving the wording of the S.I.A. and improving the inspection process on subdivisions. Mr. Seeley said that compliance with the statutes should be good enough and that having fewer requirements is better. Mr. Pacheco also said that the proposed S.I.A. from the Wyoming Club also initiated the rewriting of the current Agreement. The Chairman reminded everyone that the county attorney told the Commission and board that there were numerous flaws in the subdivision regulations, so his comments also initiated the rewriting of the S.I.A.

Mr. Pacheco identified the section in the current subdivision regulations where there is a 10 day period for notifying the county engineer to inspect improvements and then a waiting period to for him to get back to the developer with any comments. He then went on to read this section to help answer the concern for Mr. Shepperson. He said that what is proposed is the need for intermediate inspections in order to know what is actually going in the ground as oppose to doing a final inspection on something that the county has never seen. It was mentioned that we should probably consider charging the developer to pay for the inspections the county does. It was brought up that the county could use third party engineers to do inspections when called upon and that would eliminate the need to hire someone full time.

Jerry Shepperson stated that he thinks it is up to DEQ and the State Engineer's Office to review water and sewer plans and to determine if those improvements are constructed properly. The Commission mentioned that these two state agencies do review the plans submitted by developers but as far as insuring that those improvements are constructed properly, these agencies don't verify installation on site. So the S.I.A. is a way for the county to insure proper installation and construction of improvements in a subdivision.

The Chairman asked the Commission to look at the S.I.A. and give any comments to the Planner so that the Commission could have a final discussion on it at their next meeting. The Chairman mentioned the need to keep a section of the document in that referred to *Schedule of Improvements* because he said it is a way to monitor a project, especially a large project. It was also mentioned that the Wyoming Club submitted a schedule of their phases of development when they applied for their Preliminary Plat, so this is customary for any size project.

New Business:

❖ Replatting of existing subdivision lots

Mr. Pacheco discussed the memo that he sent to the Commission, which gives an explanation of the types of divisions of land that are required to follow the county's subdivision regulations. He said that anything that is a division of land that is less than 35 acres is required to comply with county subdivision regulations. He said that the question that has come up is, can an existing lot within a subdivision be resubdivided and if so, how should this be done since our current regulations do not have a procedure for allowing this to happen? He said that the county attorney has said that the resubdivision of an existing lot must be reviewed by the Commission and the Board. He said that after reviewing how prior "replats" were evaluated by the county, he found that they have been handled in different ways. He said that sometimes the person resubdividing the lot would have to go through the Preliminary and Final Plat process, while he knows of situations where attorneys and surveyors simply submitted a survey and the legal description of the property to the clerk's office without first going to the Commission or Board for approval or without identifying the property as part of a recorded subdivision. He said that the county assessor is aware of these replats, but nothing has been done to regulation this. He pointed out that other counties have a replatting process since you are amending a legal document. Mr. Pacheco said that he has asked the county attorney for guidance on this matter, but the answer he provided in a recent letter was confusing to the Clerk, the Assessor and himself. He said that he has not been given clear guidance on how this should be done. The question is, which of the current procedures, Minor, Single Land Division or Major Subdivision procedures should landowners follow?

Mr. Sandrini said that this has been an issue for a number of years and the way it was handled by previous Commissions was that a single division when split again would follow the Minor Subdivision process and further splits of that land would require the use of the Major Subdivision process. Mr. Pacheco said that it is possible for the Board to allow the Planner and County Engineer to approve the replatting of lots. He said that it is up to the Commission and Board to decide if replatting will be allowed and if so, how it should be done. Jim Varner said that there is not clear guidance from the county attorney in his recent letter.

Mr. Pacheco said that he will come up with a process that he will then present to the Commission at their next meeting as a proposal to this situation. Mr. Turner asked how replatting would affect the value of someone's land value. Mr. Pacheco said that this is a question for the county assessor. The Commission discussed the impact that covenants might have in creating replatting standards. It was discussed that the county does not uphold covenants so new regulations shouldn't matter, but others said that we should consider the rights of landowners within the subdivision, since it is the county's duties at some level to protect the rights of its residents. It was said that it would be irresponsible for the county to disregard the intent of someone's covenants. Jerry Varner said that he likes how Johnson County addresses this issue. The Commission decided to give themselves time to come up with ideas on how to handle this matter and that they will discuss these ideas at their next meeting.

Adjournment:

Motion: Jim Varner Second: Joe Sandrini Vote: 5-0 approved Time: 7:13pm

Rick Dunford, Chairman: _____ Date: _____

Joe Sandrini, Vice Chairman: _____ Date: _____

Jim Varner, Secretary: _____ Date: _____