

WESTON COUNTY PLANNING & ZONING COMMISSION MEETING

MINUTES

THURSDAY, MAY 26, 2011

6:00PM

WESTON COUNTY COURTHOUSE

This meeting was rescheduled from the regularly scheduled meeting date of May 19, 2011 to allow the Commission to attend training in Thermopolis

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

Staff: Ray Pacheco, Growth & Development Coordinator

Call to order: 6:05pm

Roll call: Jerry Varner, Joe Sandrini and Rick Dunford

Also present were Board of Commissioner members; Marty Ertman and Lenard Seeley

Approval of minutes: (April 28, 2011)

Motion: Sandrini (approve)

Seconded: Varner

Vote: 3-0 approved

Public Comment: This refers to comments, questions and/or concerns not on the agenda - None

Old Business: None

New Business:

- ❖ Single Land Division for Marilyn and Steve Konda

The Chairman briefly described the format for this portion of the meeting. He then asked for staff comments. Mr. Pacheco explained that the Konda's property is approximately 35 acres and that there are 30 acres on the west side of Hwy. 85 and 5 acres on the east side of the highway. He said that the difficulty with this request is that the Konda's land has been physically divided by a state highway but there are no records indicating when this was done and to the best of his knowledge, there are no deeds existing that indicate that this property was legally divided. Also, there are no records about easements. He said that this is common with WYDOT when they run a road through someone's property. He said that the applicants are simply trying to create a single 5 acre tract of land that can be sold.

Staff said that the County Engineer and County Assessor have reviewed the survey plat submitted and have approved it. He said that the applicant has complied with all of the standards of the Single Land Division requirements so it is his recommendation to approve the request.

Mr. Sandrini asked if this request should be exempt per state statutes, which states the follow;

18-5-303: Exemptions from provisions

(iii) A division which is created by a lien, mortgage, deed of trust or any other security instrument, easements and rights-of-way;

Staff said that it is his opinion that this division should be done properly in order to be recorded properly; he said that without the easement information from WYDOT or any of the history on the construction of the road through the property, it would be easier to have the applicant go through this process in order to properly create two separate tracts of land. The Chairman asked if WYDOT had been contacted and staff said that he could not get a hold of them to find out any of the history of the road going through this property. He also asked how responsive WYDOT is when staff tries to contact them. Staff said it depends on who you are trying to contact and for what reason. Staff said that he knows who to talk to when it comes to grants but trying to find out easement information or the history of a road is nearly impossible.

The Chairman asked the applicant to step forward and present her application to the Commission. Mrs. Marilyn Konda came forward and introduced herself and said that her and her husband bought the land about 10 years ago to give to her son. She said that since her son no longer lives in the county and is not planning on moving back, she would like to divide the land as presented and then sell the property and her and her husband would keep the remaining acreage on the west side of the highway.

Mr. Sandrini asked if Mrs. Konda has met with WYDOT about getting access to the property. Mrs. Konda said that she did meet with WYDOT earlier in the day to discuss how the approach onto the highway would or could layout and that it was a matter of getting a lot of fill dirt to create the approach or driveway onto the property. Mr. Sandrini also asked if the marketing and pre-sale of this should not happen until the property is legally subdivided. He said that according to state statute the follow should apply:

18-5-304: Subdivision permit required.

No person shall sell land subject to subdivision regulation under this article, record a plat or commence construction of a subdivision without first obtaining a subdivision permit pursuant to W.S. 18-5-306 or, if applicable, W.S. 18-5-316 from the board of the county in which the land is located.

Staff said that he has asked the County Attorney about this matter since there are others in the county that are pre-selling lots in subdivisions that aren't subdivision lots just yet. He said that the County Attorney has said that it is difficult for the county to prove that sales have actually taken place unless someone comes in and tries to record that property with the Clerk's office. Mr. Sandrini said that the law prohibits the sale or offering for sale of any lots within a potential subdivision. Mr. Sandrini said that if the property has for sale signs on the property, then the property is being offered for sale, but it is up to the county attorney to pursue the law on this matter. Staff asked if it is necessary to get a permit from the Corp of Engineers to cross the creek. Mr. Sandrini said that the Corp of Engineers does not worry about crossing creek or bodies of water without a permit because it is too difficult to keep up with the many that do it. Staff turned to Mrs. Konda and said that it is important that she visit with the Corp of Engineers and WYDOT to learn what may be required to access the highway and cross the creek to access the subject property.

Mr. Sandrini asked the applicant if she has thought about placing covenants on the property in order to avoid unwanted neighbors across the road that may bring in junk or an unwanted uses to the land. The Chairman said that this could also be done with restrictions on the deed. Staff said that this is a recommendation that the Commission likes to inform applicants about because there aren't land use regulations countywide such as zoning.

The Chairman asked for a motion. Mr. Varner made a motion to approve the Single Land Division of the Kondas:

Motion: Varner (approve) *Seconded:* Sandrini *Vote:* 3-0 approved

❖ Comprehensive Plan Presentation – Chairman Dunford

The Chairman said that this discussion has come up in response to the group who presented a “land use plan document” that they have proposed as the county’s land use plan. He said his presentation isn’t about compliance with state statute as much as it is about the general outline of a comprehensive plan and what it should include. He said that a plan is a method, scheme, procedure, outline or arrangement of information. He said that a plan must have an inventory of what is in the county. He asked, what are the current land uses in the county, in the City of Newcastle and the Town of Upton and this would be the current inventory? He said this inventory would also include zoning in order to understand the land uses within the city and town. He also said that having an inventory of acreages and what is the capacity and availability of these acres for future growth and development is important to know.

He used the fact that the Upton Industrial Park went from agricultural lands to an industrial park and now Osage is going from a small rundown town to making large improvements to upgrade everything with water and sewer improvements and this change may lead to additional growth in and around these developments. He said that a plan should show what the county has, where the county is going and where the county wants to end up. He said that the Wyoming Club location is a good example of going from agriculture land to what they want it to be, which is a mixed-use development. His purpose for this discussion was to point out that the planning document presented by Danny Bau does not have any of the basic outline points of a true land use plan. He said that another document handed to him was just a copy of state statutes but there was nothing within this information that presented itself as a comprehensive or land use plan. He said he just wanted clarify this before the Commission and those present that we should not be afraid of a comprehensive plan or its intent. Mr. Sandrini asked if the plan should tell us how to achieve the things or goals identified in the plan. He said that plans tend to overwhelm people because they start to tell people what they can and cannot do.

Mr. Sandrini asked if this approach was a way to create a Vision Document for the county. The Chairman gave an example of massive growth in a Colorado community he lived in and how it was essential that this growth was managed through a comprehensive land use plan. He said the growth of Osage or the change of other land uses can be managed with a good updated plan. He said that even the subdivision regulations should have a vision for development through the county. He said that having a plan gives the county direction and it allows its officials to properly evaluate each development or land use that comes into the county and how that land use or development is going to impact the rest of the subdivision. He talked about the importance of understanding the water rights of a development and how those rights are going to be handled and used. He said that the comprehensive plan can be a guide for all of us and he simply wanted to emphasize the lack of guidance the Danny Bau plan provided. Mr. Sandrini asked how this process could move forward in order to have a plan; he asked; where do we need to go from here?

Commissioner Lenard Seeley said that what causes the change that no one wants is the expense of that change. He said that in order to allow people to live the way they want to live is to do whatever we have to do to keep from charging everyone for the expense of change that is brought on by change and growth and how it affects everyone by the increase in property taxes. He said that subdivisions outside of city limits that have infrastructure problems come to the county for help to fix those problems and that cost gets shared by everyone else in the county. He said that we need to be creative in the way we require the developer of a development to pay for all of the costs of his development and not share that cost with the residents of the county. He said that he has seen this happen nationwide, so we need to learn how to make this happen.

The Chairman went on to explain the concept of growth boundaries and how these boundaries direct and control the growth of a community. He said that this concept gives the county the ability to control growth or to force the developer to pay for all of the expenses of a development that wants to develop outside of the growth boundaries and outside of available services like water and sewer. Mr. Sandrini said that a good plan would address this issue. Mr. Seeley said that he would like to see developers prove that they have the water to serve the development they are proposing, especially for large subdivisions. He said that the size of the development should be based on the availability of water. Mr. Pacheco said that the States Land Use Plan recommends that counties have this exact requirement in their land use plans in order to properly manage growth and to conserve water and other natural resources, and to avoid harming surrounding landowners. Staff said that Mr. Seeley's concerns can be addressed through the comprehensive plan process. He also went on to talk about the significance of growth boundaries and that there is another way to pay for growth and that is through building permits and septic permits. The Chairman said that the proposed subdivision regulations address these concerns and they make the developer liable for the cost of change and growth. Mr. Seeley said he does not like the idea of the county holding a bond on a subdivision and he thinks there is another way to go about doing this without the county having a responsibility in the subdivision process. He said that maybe the way to limit development, is through requiring the developer to pay the entire cost of that development. Mr. Sandrini said that this is a great idea but the Board would have to have the will to enforce the concept of requiring water availability on a site before the site is subdivided. He said that some people will come to the Board and say that they are not going to provide water to the site, but will haul their water, so then what do we do. Mr. Seeley said that maybe there should be separate rules between major subdivisions and smaller subdivisions. Mr. Sandrini said that applicants could always ask for variances and then it would be up to the Board to decide the legitimacy of the variance.

Staff said that he has scheduled a time with the Board to discuss the Subdivision Improvement Agreement at the Board's June 7th meeting. He said that this would be a good time for Mr. Seeley to bring up his ideas on how to deal with the S.I.A. differently than what has been proposed. Staff said that some of the questions and concerns of Mr. Seeley have been brought up by the County Attorney and the Commission has also brought these concerns up over the past year of working on the S.I.A. but the answers are going to come from the Board.

The Chairman presented the example of the Wyoming Club coming in and drilling three wells into the Madison and how this encroachment may impact surrounding property owners and their water sources; he said that this is really the big concern. Staff reminded the Commission of the statute that recently came out that says counties can require proof of water on a site prior to approving a subdivision on that site. The discussion went on about the importance of knowing that water is available on a site prior to developing that site and knowing that there will not be an impact to surrounding water sources. Staff re-emphasized that good planning on the part of the county will help prevent bad development in the county.

Mr. Seeley thanked Mr. Sandrini for asking Marilyn Konda if she would consider deed restrictions or covenants on the parcels she is creating. He thought it was a good way to handle the situation without creating a set of regulations to force the issue of not allowing certain land uses on properties. The Chairman said that they ask landowners to do this all the time when they are subdividing their properties and he said that some do it and others or most just ignore the recommendations of the Commission. Mr. Seeley said we need to educate everyone on the importance of self-regulating their land and the uses allowed on them. The Chairman said that this education process would come from having "teeth" in our subdivision regulations. Mr. Sandrini said that this would also come from a pre-application meeting.

Mr. Sandrini also asked about the status of the land use plan and where we/the county is on updating it. The Chairman said that the Commission has sent their recommendation to the Board regarding the "Danny Bau Document" and that the Commission is just waiting for direction from the Board as to what is the next step. He asked if we are going to revise the current plan, develop a new plan or simply stay with what we have. Commissioner Ertman said that we are not going to do anything about the land use plan at this time. Staff said that the Commission has been curious about the status of the Bau Document and Mr. Seeley and Mrs. Ertman said that Danny's biggest issue with the county is that no one from the Commission or Board ever looked at the document or made any

comments about it. They said that now that this Commission and the current Board have now looked at it and reviewed it, this is all they are going to do with it. The Chairman said that they will wait now to get direction from the Board.

❖ Planning & Zoning Commission Training in Thermopolis – Chairman Dunford

The Chairman gave an update to everyone present and said that this is the best conference that he has ever attended. He said the information was helpful. He said that some of the ideas presented are things that Planning & Zoning Commissions should consider such as; the need to know the site that is being developed, avoid conflicts of interests and if necessary, remove yourself from a meeting if there is truly a conflict, don't just push your chair away from the table. The Chairman said that he is gathering information from the training to share with the Commission and Board. He also said that they talked about conservation subdivisions, which are cluster subdivisions that help preserve land and the natural resources of a property. He gave an overview of the other topics that he learned from the training, such as wind energy.

Adjournment:

Motion: Varner (approve) *Seconded:* Sandrini *Vote:* 3-0 approved *Time:* 7:05pm

Rick Dunford, Chairman: _____ Date: _____

Joe Sandrini, Vice Chairman: _____ Date: _____

Jim Varner, Secretary: _____ ABSENT _____ Date: _____