Washington County Land Use Authority Meeting
May 11, 2010
(Recording available)

The Washington County Land Use Authority Meeting was held on Tuesday, May 11, 2010, at the Washington County Administration Building, 197 E. Tabernacle, St. George, Utah. The meeting was convened at 1:30 p.m. by Chairman Stucki. Commissioners present: Debora Christopher, Doug Wilson, Kim Ford, Rick Jones, Joann Balen, and Dave Everett. Also present: Deon Goheen, Planning & Zoning Administrator; Rachelle Ehlert, Deputy Attorney; Kurt Gardner, Building Official; Todd Edwards, Public Works Engineer; John Willie, Senior Planner; Dean Cox, County Administrator and Darby Klungervik, Planning Secretary.

Excused: Julie Cropper

Audience attendance: Bernie Keane, Cathleen Keane, David W. Jensen, Lynn Jensen, Gordon Poppitt, Bruce Bissell, Jed Boyle, and Russell Leslie

Chairman Stucki led the audience in the Pledge of Allegiance and explained meeting protocol.

Item #1. STAFF COMMENTS: Review staff comments for each item listed below. Staff initiated.

Item #2. CONDITIONAL USE PERMIT EXTENSION Review extension to operate an aggregate processing plant and crushing operation in an existing grand fathered pit containing 22.39 acres, a portion of Section 32, T39S, R16W, SLB&M, generally located east of Veyo. Sunroc Corporation/Russell Leslie and Dana Truman, applicants.

It was noted that the applicant was not yet present. The staff informed the commission that the applicant was notified of the meeting and would likely arrive soon.

Commissioner Ford made a motion to table this item until the end of the meeting. Commissioner Wilson seconded the motion, with all six (6) commissioners voting aye.

When the applicant later arrived, the Planner explained this is the 2nd extension review on a use within the A-10 zone under a grandfather clause, whereas the cinder pit was in existence since the zoning ordinance was adopted in 1972. The applicant has purchased the pit (22 acres) and they are operating an aggregate processing plant or a crushing operation on site. Previously, their site plan showed the location of roads, stock piles, equipment and overhead power lines. If there is to be any employees on site, the applicant needs to provide sanitary facilities.

Russell Leslie, Vice President of Sunroc Corporation, said since acquiring the property they have cleaned it up; fencing the property has kept people from dumping there. He informed the commission that business has been minimal; they have done some decorative rock and may do some block manufacturing toward the end of the year. When the facility is in operation they do provide sanitation facilities. He included an extensive air quality review has been done.

Motion was made by Commissioner Balen to recommend approval of the Conditional Use Permit Extension, for a period of one (1) year. Commissioner Wilson seconded the motion. All six (6) commissioners voted aye.

Item #3. CONDITIONAL USE PERMIT EXTENSION Review extension for a racing event, St. George River Run ½ Marathon and 5k, beginning near Veyo, running through Gunlock past the gravel pit and ending at Ivin's Unity Park**.** Blue Duck Racing/Bob Hermandson, applicant.

Item was withdrawn by applicant.

Item #4. CONDITIONAL USE PERMIT EXTENSION Review extension to build a Fire Station/Office, adding another station in the Diamond Valley area, with the building being located at the southwesterly end of the valley, Lot D, Diamond Valley Acres - Phase 2 - Plat A. Derald Terry, agent.

The Planner said this review is for the 2nd extension, however the construction has been completed and final occupancy was given on December 4, 2009; therefore, staff recommends approving this on a permanent basis. The commission may recall that the Fire Station for the SWSSD was located within an existing water company building. As previously reviewed, these types of uses are conditionally approved within the RE-40.0 zone. In expanding the facility, the fire district built the structure southwest of the existing location on a platted parcel provided for community use, Track D in Diamond Valley Acres.

Motion was made by Commissioner Balen to recommend approval of the Conditional Use Permit Extension for a Fire Station and office in Diamond Valley, on a permanent basis. Commissioner Ford seconded the motion. All six (6) commissioners voted aye.

Item #5. CONDITIONAL USE PERMIT EXTENSION Review extension for a private recreation facility (Pavilion) for family reunions on Kolob, within the SFR-1 zone, generally located north of the Blue Springs Reservoir, Section 12, T39S, R10W, SLB&M. Sheila Dutton, applicant.

The Planner informed the commission that this review with staff would have been the 2nd extension on construction of a 38' x 60' pavilion, but the use was changed from pavilion to a cabin one month after the 1st extension was granted one year ago. Ms. Dutton requested change of status with the building department. Permit inspection reports show that a rough framing inspection was made on June 23, 2009. As previously reviewed, their culinary water is provided by the Terrace Drive Mutual Water Company. No action is needed.

Item # 6. CONDITIONAL USE PERMIT Request permission to locate a temporary batch plant and job site trailers within the OSC-20 zone, for the expansion the Red Butte Substation on Forest Service land near Central. Schmidt Construction, applicant.

Motion was made by Commissioner Everett to table this item until the end of the meeting, as the applicant appeared to be running late. Commissioner Ford seconded the motion, with all six (6) commissioners voting aye.

Later, when the applicant arrived, the Planner said the applicant has located a temporary batch plant on site to facilitate a job for the Pacific Corp (Rocky Mountain Power) Red Butte Subdivision near Central. They will be hauling gravel to this site from their pit in Iron County or utilizing product from the Carl Bowler pit near Veyo if it does not have any clay. They have approvals from the Forest Service on this project and the commission will need to review this use conditionally within the OSC zone as being a use similar to the conditional uses and in harmony with the character and intent of the zone. The applicant has submitted permits from the Forest Service, Air Quality Service, and OSHA Certification. The site will have a couple of job site trailers, two porta-potties, and the batch plant outside the perimeter of the substation site.

Jed Boyle, Schmidt Construction, said the site is located on forest service property and it is a Pacific Corp project, therefore they did not know a conditional use permit through the county was needed. He said the hours of operation are Monday thru Thursday 7a.m.-5p.m. They hope to have all the concrete poured before winter. He noted porta potties and dumpsters are already on site. They are hoping to use Carl Bowler's pit in Veyo, but it will depend on the soil testing; they may also truck material in from Cedar City. Mr. Boyle said all trucks will follow proper hauling procedures. In response to Mr. Poppitt he said the forest service permit requires the property be restored to its original condition.

Todd Edwards, County Engineer inquired about the frontage road being chip sealed.

Mr. Boyle stated Washington County and Pacific Corp have an agreement to chip seal the road. As a part of Schmidt Constructions process they bladed the road and put calcium chloride on it to keep the dust to a minimum. The majority of the hauling is done. There is a window of opportunity to get the chip seal done. He said they will be providing 2700 yards of concrete just to the substation, but the trucks will not being using the frontage road. He informed the commission that they do intend to stockpile gravel, but some material cannot be stockpiled.

Facts/Findings:

- **This substation allows the applicant to comply with federal mandate**
- **The use is temporary to comply with the federal government**
- **The conditional use is in harmony with the intent of the zone**

Commissioner Christopher made a motion to recommend approval of the temporary batch plant and job site trailers, within the OSC zone on forest service land; applicant Schmidt Construction has stated their hours of operation, based on the facts and findings, for a period of one (1) year. Commissioner Everett seconded the motion, with all six (6) commissioners voting aye.

Item #7. CONDITIONAL USE PERMIT Request permission for an exception to the height requirement on two (2) poles for amateur radio facilities in Dixie Deer Estates on Rex Layne Dr in Central. Bruce Bissell and David Jensen, applicants.

The Planner stated that both applicants are amateur HAM Radio operators, who installed two poles within the setback area of their properties in Central. The adjacent neighbors, Evan and Bridget Jones, have written a letter indicating they have no problem with the pole erected near their property line. The staff attorney has reviewed the Memorandum Opinion and Order before the Federal Communications Commission on Federal preemption of state and local regulations pertaining to Amateur radio facilities. This is being reviewed conditionally on exceptions to height limitations. ***EXCEPTIONS TO HEIGHT LIMITATIONS: Subject to conditional use approval of the planning commission, and approval of the county commission, penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limit herein prescribed, but no space above the height limit shall be allowed for purposes of providing additional floor space.*** The maximum height regulation is 35 feet without a conditional use permit. The applicants are present to provide additional information.

Rachelle Ehlert, Deputy Attorney, read a section of the "FCC Order and Memorandum Opinion PRB1 (2000 Reconsideration)." She explained that the county needs to provide reasonable, practicable regulations. It is for the commission to decide what constitutes reasonable accommodations.

Commissioner Ford felt the commission should be very liberal in their interpretation of the FCC order because Ham radios become extremely important when an emergency arises.

Dean Cox, County Administrator, served for twenty years as the emergency service director for Washington County and is an amateur extra class, which is the highest class license given to amateur radio licensees. He said the local, state and federal government is extremely interested in keeping the viability of amateur radio communications because they have repeatedly proven their value in instances when normal communications and radio go down. Mr. Cox himself has a tower on BLM land on a thirty year permit, which they do not charge him for because of the intrinsic value of amateur radio. He referred to House Bill 79 which was passed in the 2003 general session of the legislature by the state of Utah; it specifically relates to the regulation of amateur radios. He stated the challenge the commission faces is determining what the minimum restrictions that can be reasonably imposed should be. He also informed the commission that the height of the antenna makes a crucial difference in the frequencies in which they can operate, making it hard to predetermine an arbitrary number. Some examples of different frequencies and the pole height needed were given. Mr. Cox stressed the importance of safety and encouraged having engineered plans for the specific load which will be applied.

The Chairman clarified the two main topics relating to this item: 1) should amateur radios be allowed in Central and 2) what type of structure should be allowed

The commission all agreed that amateur radios should be allowed in Central with some reservations from Commissioner Wilson about it being located in a residential area. He said that although he is not opposed to it, he is not comfortable with it either.

The main concern of the commission is safety; the fall zone may not encroach on neighbors without a waiver.

Bruce Bissell, applicant, said the pole is seventy (70) feet and he did consult his neighbor and received their permission before installing the pole. A copy of the letter from the neighbor was received by staff. He intends on having a fan dipole antenna and he described how it works. He stated Sturgeon Electric installed the power lines in the area as well as the pole on his property. An email from the district manager of Sturgeon Electric was read and submitted to staff. The email included calculations for the pole and the load capacity and included that the pole is only using 8% of its capacity. Mr. Bissell said ten feet of the pole is buried and he is not putting a yagi antenna up. He said the fall zone has been met because the pole could not fall on the property of the one neighbor who is concerned. Mr. Bissell's own house and the neighbor who signed a waiver are the only ones in jeopardy and they are all confident that the pole has been properly installed.

The commission and staff discussed the building permit process and the building official explained that engineering would be required.

David Jensen, applicant, informed the commission that he obtained his first federal communication amateur radio license when he was fifteen and this is a dream come true. The poles would typically cost $6,000 each, but were given to them. He described the installation process and said they are built to last. The antennas are a mere pittance compared to the loads that these poles generally bare. He said he thought the commission understood the importance of amateur radio and the federal and state recognition. He said Brad Stucki, a religious leader in the area, has also begun to study for his amateur radio license so he and the church groups he has stewardship over can be better prepared. Mr. Jensen is currently a communication specialist for his congregation.

The commission questioned why the poles were going to be destroyed and Mr. Jensen explained that their is a federal mandate involved that once these poles have been removed from where they were originally installed they can never be used again for that purpose; adding there is nothing wrong with the poles they received.

Gordon Poppitt, resident in Central, informed the commission that the poles were cut off and replaced with steel structure poles because of a fire four years ago. He said it was important to recognize that the antenna was separate than the tower. The poles are structures for code purposes. His biggest concern is the fall zone and safety issues. He said a sixty foot pole

depending on the classification and the treatment it gets it can weigh over 4000 pounds; the second class with less treatment and less density would be 3500 pounds, a ninety foot pole can be 6600 pounds and a sixty foot pole needs to have nine (9) to ten (10) feet below the ground. Mr. Poppitt agrees that there is a need for emergency communication and would like the county to find a method to assist applicants with grant money for the telescoping towers, which would eliminate the intrusive cost. He did receive five phone calls from residents inquiring about the poles and he does not see the issue being the height, but the safety and aesthetics.

The commission's main concerns are the health, safety and welfare of the residents; therefore, they decided more time was needed to review the information.

Motion was made by Commissioner Ford to table this item for further review. Commissioner Everett seconded the motion, with all six (6) commissioners voting aye.

Item #8. STAFF DECISIONS Review of decisions from the Land Use Authority Staff Meeting held on May 4, 2010. County initiated**.**

The staff meeting convened at 9:30 a.m. Staff Members Present: Deon Goheen, Planning & Zoning Administrator; Kurt Gardner, Building Official; Todd Edwards, County Engineer; Rachelle Ehlert, Deputy Civil Attorney; Darwin Hall, Ash Creek Special Service District Director; Tina Esplin, Washington County Water Conservancy District; and Robert Beers, Southwest Utah Public Health Department.

Excused: Ron Whitehead, Public Works Director and Paul Wright, Department of Environmental Quality

CONDITIONAL USE PERMIT EXTENSION:

A. Review extension to build a 2nd dwelling for a family member within the A-20 zone, located in the Prince Lot Split, which is north of the North Valley Ranches Subdivision. Tim & Kristy Northon, applicant.

The planner explained that this is the 2nd extension. Previously, the applicant met the requirements for a Conditional Use Permit by submitting a site plan, deeds of ownership, septic permit from the Southwest Utah Public Health Department, and a letter from the North Valley Ranch Water Company stating they will serve water. Second dwellings for a family member are conditionally approved within the A-20 zone, with the property containing 20 acres, Prince Lot Split (1 of 8 lots approved). The property is accessed from Hwy 144, at 1451 E 2000 N, generally located northeast of New Harmony. The site plan met all setback requirements for 25' on the sides, rear and frontage. There is record (Permit #5871) of exterior lath rough being inspected on April 9, 2010, by Building Inspector Henry Brannon. **The staff felt there would be no problem in approving this Conditional Use Permit for another a one (1) year period.**

Item #9. MINUTES Consider approval of the minutes of the regular planning commission meetings held on April 13 & 27, 2010.

The minutes will be addressed at the next meeting.

Item #10. COUNTY COMMISSION ACTION REVIEW Review of action taken by the County Commission on Planning Items. County initiated

The Planner reviewed the action taken on Planning Items by the Washington County Commission on April 20 and May 4, 2010, beginning at 4:00 p.m.: (a) Conditional use to operate a 24 hour therapeutic boarding school "Brookhaven" (Country Living) for young men between the ages of 13 & 17 at Brookside... Michael C. Armstrong, applicant; (b) Conditional use extension on a Tower for Verizon Wireless at Big Mountain communications facility in Section 4, T38S, R16W, on Forest Service property near Enterprise... Connie Misket/Technology Associates International Corporation, agent; (c) Conditional use extension to run a new transmission line from Central to the Middleton Substation and install a temporary line from the Middleton Substation to St. George Substation, fencing and expansion on the existing facility and changes to the Black Gulch to Diamond Valley line... Rocky Mountain Power/Project Manager Paul Henry, applicant; (d) Conditional use for the five (5) Zip Lines at Pah Tempe, within the OST-20 Zone, unincorporated area of Washington County... Ken Anderson, applicant; (e) Consider approval on amendment to the Washington County Land Use (Zoning) Ordinance, Title 10, Chapter 25, Wind Energy Systems and Facilities... County initiated; and (f) Zone change from C-1 (Neighborhood Commercial) to C-2 (Highway Commercial) zone, containing 5.425 acres, a portion of Section 21, T40S, R11W, SLB&M, for a Bed and Breakfast. Hank Landau, owner/applicant.

The Planner explained these items were approved based on the recommendations of the Planning Commission with the following exceptions: the application for Brookhaven was withdrawn by the applicant and the zip lines at Pah Tempe were approved subject to the applicant putting in an application for annexation to Hurricane City.

Item #11. COMMISSION & STAFF REPORTS: General reporting on various topics. County initiated.

There being no further business at 3:37 p.m., Chairman Stucki adjourned the meeting.

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Darby Klungervik, Planning Secretary