



Elko County Planning Commission

540 COURT STREET, SUITE 104, ELKO, NV 89801
PH. (775)738-6816, FAX (775) 738-4581

ELKO COUNTY PLANNING COMMISSION MINUTES

THURSDAY, JANUARY 20, 2011

5:15 P.M. CALL TO ORDER:

Chairman Judd called the regular meeting of the Elko County Planning Commission to order at 5:15 p.m. on **January 20, 2011**, in Suite 102, of the Nannini Administration Building, Elko, Nevada.

Members Present: Mike Judd, Chairman
 Dena Hartley, Vice Chairman
 Jack D. Larason
 David A. Galyen
 David Hough
 Wilde Brough
 Milt Grisham

Absent : None

Others Present: John Kingwell, Associate Planner
 Kelly Watson, Planning & Zoning Administrator
 Jennifer Spencer, District Attorney's Office

I. PLEDGE OF ALLEGIANCE:

Allegiance pledged.

II. APPROVAL OF MINUTES:

ACTION ITEM

December 16, 2010 – Regular Meeting

MOTION: Commissioner Hartley moved to approve the minutes as submitted. Commissioner Larason seconded the motion. The motion passed unanimously.

VOTE:

AYE: Mike Judd
 Jack D. Larason
 Dena Hartley

David Hough
David A. Galyen
Wilde Brough
Milt Grisham

NAY: None

ABSENT: None

ABSTENTIONS: None

III. COMMENTS BY THE GENERAL PUBLIC:

NON-ACTION ITEM

There were no comments made by the general public.

IV. CONSENT AGENDA:

ACTION ITEMS

NONE

V. PRELIMINARY HEARINGS:

ACTION ITEMS

NONE

Chairman Judd changed the order of the meeting to item VII. OTHER BUSINESS.

VI. PUBLIC HEARINGS:

ACTION ITEMS

10-1500-0001, Wind Turbines & Towers – Code Development, a 1 Hr. Workshop

Elko County is in the process of developing a wind energy development code. The 1 hour workshop topics will address minimum parcel sizes, setbacks and other health and safety concerns.

Mr. Kingwell indicated the last meeting had ended with discussion of determining rotor diameters and continued the review of the ordinance by providing information on different rotor diameters being used in the industry and added he spoke with Mr. Rich Hamilton who was present at the previous meeting and he suggested the diameter be reviewed just as the height of the tower by reviewing the turbine size through the permitting process. He stated the verbiage of the ordinance and indicated one of the reasons behind the wording was that some of the systems are capable of producing enough power for fifteen average homes which would not be suitable for residential parcels but are private and should not be set up to make money and/or be used for commercial uses. He gave an overview of the standards and codes the systems would have to meet.

There was discussion regarding the knowledge the Planning Commission and Staff will need to possess to be able to review the systems during the permitting process. It was also discussed and

determined that the applicant will be providing the information needed for the review which will be verified during the research conducted by Staff while writing the Staff Report.

Commissioner Galyen stated he didn't feel it was his position to determine someone's needs over their wants.

Mr. Kingwell stated it is the Board's position not to allow commercial uses on residential property.

Commissioner Larason asked if there is a concern of someone trying to sell their surplus power to their neighbors if they install a system that is capable of producing more electricity than needed for their own residence.

Mr. Kingwell stated if there is ever an opportunity to sell back to the grid it could present problems with 100kw systems on residential parcels that are being used for commercial purposes.

There was some discussion regarding the power that is produced in excess of the needs of the parcel and that NV Energy will bank the excess for up to a year for the owner.

MOTION: Commissioner Galyen moved to adopt the language provided by Staff for the item. Commissioner Hartley seconded the motion and the motion passed unanimously.

VOTE:

AYE:	Mike Judd Jack D. Larason Dena Hartley David Hough David A. Galyen Wilde Brough Milt Grisham
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NAY:	None
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ABSENT:	None
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ABSTENTIONS:	None
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Mr. Kingwell continued to review the ordinance and asked the Planning Commission to interject any changes or discussion on specific items as they are addressed.

Commissioner Galyen asked for an explanation of the item that restricted systems being located within a front yard setback and a front yard setback facing a street on a corner parcel of land.

Mr. Kingwell clarified that systems would not be allowed in any setbacks not just the front yard.

Commissioner Larason indicated under Roof mounted private wind machines, letter (a) is a broad statement and believes an individual should be able to mount a system that can be obtained from a local retailer to their residential structures as long as the height restrictions are met and the structure is engineered to handle the system.

There was continued discussion regarding whether private wind machines should be allowed to be mounted to roofs on residential structures.

MOTION: Commissioner Hough moved to delete the entire item referring to Roof mounted private wind machines. Commissioner Brough seconded the motion and the motion passed with Commissioners Judd and Hartley voting against the motion.

VOTE:

AYE: Jack D. Larason
David Hough
David A. Galyen
Wilde Brough
Milt Grisham

NAY: Mike Judd
Dena Hartley

ABSENT: None

ABSTENTIONS: None

Mr. Kingwell continued to review the ordinance and asked the Planning Commission to interject any changes or discussion on specific items as they are addressed.

Commissioner Galyen asked what the definition of manual shut-off switch meant and whether it was electrical or mechanical.

There was discussion that a manual shut-off switch could refer to electrical or mechanical and further research would be done to verify what would be required to comply with applicable codes and include a definition into the ordinance.

There was discussion regarding the requirement that a wind machine that is not operated for a continuous period of twelve (12) months be removed by the owner and was agreed to change the wording to include if the machine is not operated due to mechanical and other maintenance issues for a continuous twelve (12) month period shall be removed or repaired by the owner.

There was discussion regarding further items that referred to repair and removal of wind machines because of the permit expiring or it not being operable.

MOTION: Commissioner Hough moved that if the conditional use permit expires the machine must be removed or re-permitted. Commissioner Galyen seconded the motion. Commissioner Hough withdrew his motion and Commissioner Galyen withdrew his second.

Commissioner Hough noted that when someone sells the property the conditional use permit expires.

Commissioner Larason asked if a new owner will have to apply for a conditional use permit and pay the fee for an improvement that was included in the appraisal of the land and stated he felt the only issue for wind machines should be safety.

Commissioner Brough asked if the property is sold will the conditional use permit expire.

Mr. Kingwell stated a conditional use permit goes with the person and if the property is sold a conditional use permit will have to be applied for by the new property owner. He added that a conditional use permit is a contractual agreement between the County and the property owner for a use that is being allowed that has conditions attached to it because of health, safety and welfare issues.

Commissioner Hartley asked if a new property owner could come before the Planning Commission and ask for the permit to be transferred without paying the fee.

Mr. Kingwell indicated no there would need to be a new application.

MOTION: Commissioner Galyen moved to strike the requirement that the system must be removed and the property restored to its previous condition within 180 days if it is not used for one year to generate electricity or the permit has expired. Chairman Larason seconded the motion.

Mr. Kingwell explained the conditional use permit has an expiration date of 180 days if it is not constructed and this requirement follows the same guidelines.

Commissioner Galyen withdrew his motion and Commissioner Larason withdrew his second.

There was discussion regarding the wording of the items included in the portion of the ordinance regarding repair and removal of wind machines and it was agreed that there should be some revisions that would be in accordance with the current County Code for Planning & Zoning and Building Codes and permits. Staff was directed to revise the wording contained in the ordinance in regards to the repair and removal of the wind machines and present it at the next meeting.

Chairman Judd opened the meeting to the public.

There was no public comment on the issues presented at the meeting.

VII. OTHER BUSINESS:

NON-ACTION ITEM

Redstone Ranch Land Use Plan

A presentation by Mr. Kenneth Krater for revisions to the Redstone Ranch land use plan including changes to the primary access followed by discussion.

Ken Krater, owner and developer of Ruby Vista Ranch, indicated since the previous zone change approval and development agreement for the development of a planned community across from Spring Creek High School they have been working diligently to move the project forward but have run into issues being the recession and the Environmental Protection Agency in San Francisco. He gave an overview of where the proposed development would be located and indicated they had done a significant amount of engineering and testing including geotechnical and environmental studies. He further indicated the project had received a jurisdictional determination from the Army Corps of Engineers to determine if there are any waters that would be considered waters of the United States

and if any of the land would be classified as a wetland and after working with the branch Chief in the Reno office for approximately one year it was determined there were approximately twenty-four acres of wetlands on the project that had been approved. He continued stating the proposed main access of the project lines up with the main entrance of the Spring Creek High School and is where the wetlands were found which was proposed to be commercial and in addition Ten Mile Creek meanders through the property which comes from Spring Creek and the creeks in that area were designated as wetlands by the Army Corps of Engineers which was included in the letter of jurisdictional determination they received. He continued indicating that afterwards they found out that the communication that is normally expected on this type of project had not taken place with the Environmental Protection Agency in San Francisco. He further indicated that the designated wetlands were increased from twenty-four acres to one hundred twenty acres after they worked with a new contact at the Army Corps of Engineers and the EPA for a new jurisdictional determination. He continued stating one of the things that they don't like is one of the most significant wetlands area is where the High School entrance is and would eliminate the area of high quality wetlands on the site. He added that the Spring Creek Master Plan and NDOT want a roundabout at the entrance of the High School but now that the wetlands determination has changed he was trying to come up with an alternative that would still meet the traffic and access needs and possibly reduce the impact of the wetlands. He continued providing information on the current access routes for the Spring Creek Middle School and High School and commented that the best route into the Elementary School is by Boyd Kennedy Road. He continued stating he met with Jeff Zander, Superintendent of Schools, and the Elko County School District has been looking at building a new frontage road that would provide access from Boyd Kennedy directly to the Middle School and High School parking lot. He indicated another item of discussion has been a need for a second means of access into the Spring Creek community and after reviewing topographic maps he realized that Boyd Kennedy Road might become that second means of access out to Interstate 80 and a possible potential for more development. He added that he had met with Randy Hesterlee with NDOT and Mr. Kingwell and Mr. Brown with Elko County and Jeff Zander from the school district and everyone agreed that there was merit in looking at moving the main access from the High School entrance to Boyd Kennedy Road and decided that a presentation be made to the School Board first and get their reaction because Mr. Brown had informed him of the work that had been done in the past to get the School Board to approve of the original access location at the High School. He continued stating he had met with the School Board and got a warm reception for the relocation and felt the biggest reason was if the frontage road was built with the main entrance at Boyd Kennedy there would be access to all three schools and the roundabout through the frontage road would provide access to the schools and other areas on Boyd Kennedy Road and provide an easy u-turn movement. He continued indicating the School Board decided not to make any recommendation since the issue was under the purview of NDOT and the County but he felt the School Board gave him the blessing to move forward and look at this alternative. He further indicated that he would need to review the Master Plan of the project in respect to the relocation of the roundabout, avoiding the new identified wetlands through the new jurisdictional determination he is working on and the change in access to the project. He presented a revised Master Plan of the development with the change of the main access from the school entrance to Boyd Kennedy Road adding that he thought the School Board liked the revised plan better than the original plan because it moves the main commercial area away from the main entrance of the High School. He continued stating there would still be multi-family development on both sides of the commercial parcels and indicated the first area to be developed would be the multi-family area adjacent to the park and drive lot for local mines. He added that the revised plan would still provide an area for farmer's markets and community events in addition to open space areas and parks. He continued stating the revised plan would follow the new path of the wetlands and avoids 90% of the new wetlands area being proposed by the Army Corps of Engineers

and leaving Ten Mile Creek open down through the project into Stoffer Creek. He gave further details of the differences in the original plan and the revised plan he was presenting. He further stated that they had been working with the Spring Creek Utility Company and have a Draft Memorandum of Understanding with them that should be recorded in the near future. He added that Spring Creek Utilities plan on building a sixteen inch transmission line in the spring on the developer's property all the way up to existing Well #1 and with that water line in place it will give the developer the water for potentially up to the first 650 residential dwelling units including storage. He continued stating he had been working with Southwest Gas and they are underway with a design to bring a gas line into Spring Creek over Elko Summit down to the main point of access to serve the project. He continued stating they have been working hard on resolving the issues and having to start over with the Army Corps of Engineers and EPA caused some problems but he felt he had the issue resolved. He added that the water line that is being installed has to be done by December 31, 2011, or Spring Creek Utilities will incur daily fines as of January 1, 2012, because of the arsenic levels in the water not meeting the federal drinking water standards. He displayed the layout of the proposed apartments to be constructed on the north end of the site they hope to start constructing in the spring of 2012 following with development of other areas as the economy would allow.

Commissioner Galyen asked if the new wetlands on the north end affected the sewage plans for the development.

Mr. Krater indicated the same number of acreage is dedicated for the sewer treatment plant and with the Memorandum of Understanding with Spring Creek Utilities once the facility is constructed Spring Creek Utilities will take over ownership and maintenance because it will be able to expand and accommodate additional development that occurs on the other side of the highway.

Commissioner Hartley asked if there is an architectural plan of the sites for the water wells and asked if the sixteen inch line is part of the project coming from the Oakmont area and Sarman's Ranch and if Well #1 that was referred to earlier is already in place.

Mr. Krater stated he understood that the well is close to an existing well source and is in the 400 Tract.

There was discussion regarding the proposed sixteen inch water line; possible construction of future wells and the current well capacity on the property; and the amount of water that will be used for the development of the project.

Commissioner Hartley asked Mr. Krater if the Commission could obtain a copy of the Draft Memorandum of Understanding with Spring Creek Utilities he had referred to earlier.

Mr. Krater answered that he would have to contact Spring Creek Utilities to obtain their approval before providing a copy.

There was continued discussion regarding the water resources available for the development and the possible use or treatment of the water that contained too much arsenic to meet the federal guidelines.

Commissioner Galyen asked about the name being changed to Redstone from Ruby Vista.

Mr. Krater answered that "ruby" is used in many subdivisions in the area and they wanted to make sure they were distinct from other developments.

Chairman Judd changed the order of the meeting back to item VI.

VIII. STAFF AND COMMISSIONERS COMMENTS:

NON-ACTION ITEM

There were no comments made by Staff or Commissioners.

IX. ADJOURNMENT

Chairman Judd adjourned the meeting at 6:41p.m., as there was no further business.

Minutes Clerk, *Kelly Watson*
Kelly Watson

Date Approved, March 17, 2011