

MINUTES

HEARING OF THE NAVAJO COUNTY PLANNING AND ZONING COMMISSION

July 21, 2011

ATTENDANCE P & Z Commissioners

ATTENDED

1. Chuck Teetsel
2. Joel Lawson
3. Randy Murph
4. Rick Slone
5. Ruth Ann Smith
6. Wendell DeCross

ABSENT

Bob Hall
Carol Davis
Evelyn Meadows
Fred Shupla
Jason Hatch
Robert K. Black, Jr
Bill Rawlings

Staff Attendance

Greg Loper
Bill Fraley
Bill Bess

Trent Larson
Peggy Saunders

Meeting held at the Navajo County Board of Supervisors Chambers, Holbrook, Arizona – Time: 6:01 p.m. to 8:26 p.m.

Chairman Joel Lawson called the meeting of the Navajo County Planning & Zoning Commission to order and explained the meeting procedures to the public. **Mr. Lawson** then led the pledge of Allegiance.

Item # 1 – Case # 11-06: MASTER DEVELOPMENT SITE PLAN AMENDMENT: Discussion and possible Commission action on an amendment to the Master Development Site Plan for the Pinecrest Lake Master Development Site Plan as approved with the Special Development zoning granted for the Pinecrest Lake RV Resort as approved on April 30, 1985, under Resolution #'s 35-85 & 36-85 and as amended on August 20, 1990, to change the lot development standards addressing setbacks. Located on APN's 206-42-001 thru 200; a.k.a. a portion of Section 33, Township 12 North, Range 17 East, G&SRM, Navajo County, Arizona; in the Overgaard area.

Greg Loper gave an overview of Master Development Site Plan Amendment that was developed in 1985 as a 200 vehicle RV Park using park model homes. Park Model Homes are recognized by the state as a recreational vehicle. The original site plan did not address the addition of buildings between the park models on the lot. They are requesting the side yard setbacks be changed to accommodate the placement of accessory buildings or other uses, to something less than fifteen feet on the four interior lots and four feet between buildings on adjacent lots. Typically the buildings have been less than 144 square feet, and don't require a permit. Building inspectors have said these accessory buildings are too close to the lot next door. The property owners came forward two yrs ago to try to address the problem. The new setback distances will meet building codes, but the buildings must have fire rated walls between attached structures.

Chairman Joel Lawson opened the public hearing portion of the Agenda. **Ed Mann** of 2151 Old Crook Trail in Overgaard, is the President of the Pinecrest Property Owners Association,. The placements they are requesting will eliminate future problems with setbacks in the park. There were no other speakers in favor or in opposition of this Master Development Site Plan Amendment.

Commissioner Chuck Teetsel asked staff if all property owners within the subdivision were sent notices. **Greg Loper** said they were all noticed, as well as those living within 300' of the entire subdivision. Staff met with 50 of the property owners about one year ago. The people were well informed about the changes.

Commissioner Chuck Teetsel made a motion to recommend approval of the Master Development Site Plan Amendment as recommended by staff. The vote was unanimous (6-0), approving the motion. **Commissioner Ruth Ann Smith** seconded the motion. **Commissioner Smith** said she was aware of the problems that existed, and felt this was an excellent resolution along with a safer distribution of the setbacks between buildings.

Item # 2 – Case # 11-20: SPECIAL USE PERMIT: Discussion and possible Commission action on a request by Aurora Solar, LLC, for a Special Use Permit to develop a photovoltaic solar power generating facility on approximately 397.55 acres located on a portion of APN's 202-50-002, 003, 004, 005, 006, 007, 009, 010, 011 & 012 on a portion of Section 17, Township 14 North, Range 21 East, G&SRM, Navajo County, Arizona approximately 3 miles north of Snowflake.

Greg Loper explained that this item would be postponed until the August 18, 2011 meeting. There were missing APN numbers on the application that should have been included in the notices, so staff could not present the item at this time.

Item # 3 – Case # 11-21: AMENDMENT TO A SPECIAL USE PERMIT: Discussion and possible Commission action on a request by RES Americas for an Amendment to an existing Special Use Permit (granted under Resolution #38-10) to extend the time-frame for the placement of one meteorological testing tower ("M1"). The meteorological tower has a maximum height of 265 feet and is used to measure wind for the potential of developing alternative energy generation. Located on a portion of APN 201-09-001A; a.k.a. a portion of Section 23, Township 14 North, Range 17 East, G&SRM, Navajo County, Arizona; in the Antelope Valley area, approximately 10 miles northeast of Heber.

Greg Loper requested to address staff reports on all three Met Tower Special Use Permit extensions at the same time, but the Commission would have to take action on the items separately. RES America installed one tower, (M3) out of the four approved in 2010, but wanted to allow more time for the installation of M1, M2 and M4. The Antelope Valley development is in the northern portion of the area. Mr. Loper pointed out the access road from SR 377 to the site, which can be used as the sole access for the other met towers. The Special Use Permit is subject to stipulations which are outlined in the Staff Report. **Jennifer Breidt**, of RES America, said nothing has changed on the application, except they would like to stagger the installation times on the remaining three towers as needed. The next Met Tower to be installed is M2, with up to June 30, 2012 to complete the installation and three years of monitoring. M1 and M4 would be installed as needed up until June 30, 2013 with three years of monitoring.

Chairman Joel Lawson opened the public hearing portion of the Agenda. No one from the public came forward in favor of the Special Use Permit Amendment. Opposed: **M. L. Johnson**, owner of Johnson Tires and Towing said the Met Towers have ruined the cell phone communications in the area, and his business has been adversely affected. Cell phones calls from his customers, and law enforcement officers are being dropped in the Heber vicinity and also in the vicinity of his business in Young, AZ. **Chairman Lawson** asked staff if they were aware of a problem in the area. **Greg Loper** answered that he was not aware of any radiation from the towers and would have to defer to the developer. He has been in the area, and has experienced dropped calls. The M3 tower location is approximately 3 miles from the nearest residence, and at least a mile from a residence on the other tower sites.

Jennifer Breidt responded to the Commission that the towers use a small solar panel system to power the lights, but the transmitter ends data by cell phone or satellite. The terrain contributes to the reason it is not a great area for cell phone signals. The M3 tower is more than three miles from the nearest residence, and one mile from nearest town. There are no transmission wires that might cause interference. **Commissioner Wendell DeCross** asked why there was such an excessive long delay for two of the towers installations, **Greg Loper** responded that it is not uncommon to phase the towers to help refine the data for setting the wind towers. **Ms. Breidt** added that met towers are phased in to pinpoint specific data; since there is a large capital expense for each potential site they want to be certain of the data for capital financing investors.

The capital markets are very competitive right now, and with the undulating terrain, elevation changes, vegetation or other obstacles they might incur, they need to be confident in the data. **Commissioner Teetsel** asked about the M3 data they have received, and **Ms. Brecht** responded that it is too early to tell. **Commissioner DeCross** felt the timeframe (a five year period) from installation to take down was too long.

Commissioner Randy Murph made a motion to approve with the recommendations from staff.. The motion was seconded by **Commissioner Rick Slone**. The vote was (5-1) in favor. **Commissioner DeCross** voted opposed. The motion passed.

Item # 4 – Case # 11-22: AMENDMENT TO A SPECIAL USE PERMIT: Discussion and possible Commission action on a request by RES Americas for an Amendment to an existing Special Use Permit (granted under Resolution #39-10) to extend the time-frame for the placement of one meteorological testing tower (“M2”). The meteorological tower has a maximum height of 265 feet and is used to measure wind for the potential of developing alternative energy generation. Located on a portion of APN 201-10-001; a.k.a. a portion of Section 29, Township 14 North, Range 18 East, G&SRM, Navajo County, Arizona; in the Antelope Valley area, approximately 10 miles northeast of Heber. **Greg Loper** presented the staff report on the M2 project site. **Jennifer Brecht** clarified that the capital financing is not for met towers, but for the development of the wind farms. They must budget for the full development. They still have the Game & Fish Department studies to complete as well as Cultural studies to complete. **Greg Loper** added that the Game and Fish Department has issued guidelines for wind farms and met towers, and staff seeks their input, but it is not a requirement. We do add the stipulation that they work with the Game and Fish Department to help resolve potential site issues. **Ms. Brecht** further stated that they have some state parcels which require them to follow the Game and Fish guidelines.

Chairman Joel Lawson opened the public hearing portion of the Agenda. No one from the public came forward in favor of the item. Opposed: **Susan Malloy** wanted to know if Mr. Johnson’s situation could be addressed, and agreed that the radio interference was worth discussing. **Greg Loper** responded that the Federal Communications Commission regulates radio interference by any source. If they are in compliance with the FCC and M3 is causing cell phone interference, contact your provider first, then contact an attorney with a background in radio interference litigation.

Commissioner Randy Murph made a motion to recommend approval of the Special Use Permit for Met Tower M2, with the recommendations as presented by staff. The motion was seconded by **Commissioner Chuck Teetsel**. The vote was unanimous (6-0), approving the motion.

Item # 5 – Case # 11-23: AMENDMENT TO A SPECIAL USE PERMIT: Discussion and possible Commission action on a request by RES Americas for an Amendment to an existing Special Use Permit (granted under Resolution #41-10) to extend the time-frame for the placement of one meteorological testing tower (“M4”). The meteorological tower has a maximum height of 265 feet and is used to measure wind for the potential of developing alternative energy generation. Located on a portion of APN 201-04-001; a.k.a. a portion of Section 5, Township 13 North, Range 18 East, G&SRM, Navajo County, Arizona; in the Antelope Valley area, approximately 10 miles northeast of Heber.

Greg Loper presented the staff report on the third and final RES request. Mr. Loper pointed out the M4 location in the far southeast corner of the vicinity map.

Chairman Joel Lawson opened the public hearing portion of the Agenda. No other members of the public came forward in favor or opposed to the Special Use Permit Amendment. With no further comments or questions from the Commission, **Chairman Lawson** called for a motion.

Commissioner Randy Murph made a motion to recommend approval of the Amendment of the Special Use Permit, with recommendations from staff. The motion was seconded by **Commissioner Teetsel**. The vote was (5-1), **Commissioner DeCross** was opposed due to the time increase. Motion approved.

Item # 6 – Case # 11-34: SPECIAL USE PERMIT: Discussion and possible Commission action on a request by Pacific Wind Development, LLD, (a subsidiary of Iberdrola Renewables, Inc.) for a Special Use Permit to allow for placement of a meteorological tower with a maximum height of approximately 197 feet (60 meters) to assess the viability of a potential wind energy project. Located on a portion of APN 202-26-008; a.k.a. a portion of Section 19, Township 14 North, Range 20 East, G&SRM, Navajo County, Arizona, approximately 6 miles northwest of Snowflake.

Greg Loper gave an overview of the Special Use Permit requested by Pacific Wind Development. The Revised Stipulations for the project were handed out to the Commission. Staff is recommending approval with the revised stipulations for numbers 5 and 9. Stipulation Number 5 mandated the applicant to use FAA lighting requirements, but the proposed tower height is less than towers that are regulated by the FAA. The goal was to make sure the towers were lit with soft non strobe lighting, and the change in wording would accomplish the same thing. Stipulation number 9 would change the wording to include “equipping the tower for the possible installation of” acoustic monitoring station” and remove on or near the meteorological tower. This is where we try to incorporate the Game and Fish’s guidelines to the extent possible.

Commissioner Chuck Teetsel had questions about changing stipulation number 5, and wondered if the tower was three feet taller would it change. **Greg Loper** said if it was three feet taller it would fall under the jurisdiction of the FAA. The orange and white striping was also discussed and it was not an issue for the developer; they didn’t want to have language in the stipulation that might require an FAA review. **Jennifer Breidt** and **Ryan Henning** of RES America provided input for the Commission on the lighting requirements for the FAA.

Chairman Joel Lawson opened the public hearing portion of the Agenda. No other members of the public came forward in favor or opposed to the Special Use Permit Amendment. The Applicant was not in attendance. After further discussion it was decided that the wording would

Commissioner Chuck Teetsel made a motion to approve this Special Use Permit as presented with the exception that we revise stipulation (5) to read, “that the lighting be the same as the FAA would require if it was a 200’ tower.” The motion was seconded by **Commissioner Rick Slone**. Chairman Joel Lawson asked for a Vote on amendment first which passed (6-0). Next they voted on the change to the stipulations to agree with **Commissioner Teetsel’s** amended motion. The vote was unanimous (6-0), approving the motion.

Item # 7 – Case #11-33: TENTATIVE PLAT: Discussion and possible Commission action on a Tentative Plat for the proposed Meadows Edge subdivision on a 35.98 acre parcel located at the southeast corner of Meadow Trail and Mogollon Drive, adjacent to the Pine Meadows Country Club in Overgaard. The proposal is for a 13-lot subdivision with a possible guest house on each lot, in the Special Development zoning district. The parcel is described as APN 206-27-007; a.k.a. a portion of Section 33, Township 12 North – Range 17 East, G&SRM, Navajo County, Arizona (Overgaard).

Bill Fraley presented the staff report and gave an overview of the Meadows Edge Tentative Plat, and reminded Commissioners that the Development Site Plan for Meadows Edge was approved at the May 19, 2011 meeting. Mr. Fraley acknowledged that Robb Tyler and Ralph Bossert were in attendance, as well as Bill Bess, the Navajo County Engineer and Trent Larson of the Flood Control Department if there were any questions. Specifics of the Tentative Plat were discussed, and questions from the Commission were answered.

Chairman Joel Lawson opened the public hearing portion of the Agenda. No one from the public came forward in favor or in opposition of the project.

Commissioner Teetsel asked how many of the lots available could be split into two lots. These are larger parcels with a potential to have 26 lots, with a minimum lot size of one acre. The lots will not be split down the middle, and all lots may not be split. That option is there for the lot owner but any split is subject to the criteria as specified for any split to occur. **Bill Bess** has reviewed the Plat and the proposed project site and said the architect will have to be creative to do the split to incorporate the septic and in order to make the split work in such a way that the parcels will have at least the minimum acreage. The Final Plat stage is where we evaluate if it is feasible to split into 26 lots. They will look at street design and drainage reports as they go forward with the process. The final drainage plan will be submitted as part of the final plat. The comments made will have been addressed. One concern expressed was the narrow frontage on the long cul-de-sac; would a Fire truck be able to get in and out of the cul-de-sac. There are two ingress egress points off Mogollon Drive to the subdivision, and there will be access to almost all lots by exterior roads. Easements for drainage will provide access to the catch basins. **Robb Tyler** said all these details will be a part of the Public Report and the CC&R's. They need a Final Plat in order to file with the Department of Real Estate; **Greg Loper** added that the building permitting process will catch some of the issues that may come into play. **Ralph Bossert** with the Verde Engineering group said the preliminary drainage report has already been sent to staff. They believe that nine of the lots might be split. **Commissioner Rick Slone** said with the potential of a 26 lot subdivision at this point they should cover all the bases to give yourself as many options as possible. He agreed that the developer and staff have done a very good job of addressing potential problems and could see no down side.

Commissioner Ruth Ann Smith made a motion to approve the Tentative Plat. The motion was seconded by **Commissioner Randy Murph**. The vote was unanimous (6-0), approving the motion.

Item # 8 – Case # 11-35: ZONING ORDINANCE AMENDMENT – MEDICAL MARIJUANA; Discussion and possible action concerning an Amendment to Article 16A (“Medical Marijuana”) of the Navajo County Zoning Ordinance, as adopted by Ordinance #01-11, on February 22, 2011.

Greg Loper gave an overview of the Ordinance Amendment. After the adoption of the Medical Marijuana Ordinance on March 20, 2011, the County Attorney attended a seminar to clarify some of the points in the ordinance. The Ordinance implied that a Designated Caregiver had to live at least 25 miles from a Dispensary, but was clarified to mean each person the Caregiver attends must be live at least 25 miles away from a dispensary. The second part of the Ordinance was changed to avoid speculation. It requires additional application materials for a Special Use Permit, to include evidence that the applicant has applied to the Arizona Department of Health Services (ADHS) for a dispensary registration certificate. and that Arizona Department of Health Services has accepted the application. The applications we've received for Medical Marijuana Dispensaries are being returned. The only option for growing marijuana or having a caregiver grow for you is if you live at least 25 miles away from a dispensary. There is no distance requirement for a caretaker. With no other comments or anyone from the public in favor or opposed to the changes, **Commissioner Randy Murph** made a motion to approve the text amendment. The motion was seconded by **Commissioner Chuck Teetsel**. The vote was unanimous (6-0), approving the motion.

Item # 9 – Case #11-29: ZONING ORDINANCE AMENDMENT – KENNELS; Discussion and possible action concerning amendments to the Navajo County Zoning Ordinance regarding kennels. Specifically, an amendment to Section 1502 (C-R/Commercial-Residential zoning district use regulations), Section 1802 (IND-1/Light Industrial zoning district use regulations), Section 1902 (IND-2/Heavy Industrial zoning district use regulations) adding kennels as an allowed use; and to Section 2001 (Special Uses) amending the text allowing kennels as a Special Use; and to Section 3002 (Definitions) amending the definition of Kennel.

Bill Fraley gave an overview of the Ordinance Amendment for Kennels which would add kennels as an allowed use in C-R and Industrial zones; and amending the text allowing kennels as a Special Use; and amending the definition of a Kennel. This proposed amendment to the Zoning Ordinance will address

kennels as a land use only. The existing Navajo County Animal Control Ordinance will continue to regulate license procedures and kennel operations. The amendment is proposing to add kennels as a use by right in CR and Industrial 1 & 2. The definition will be changed to any premises used for the breeding, selling or boarding of dogs, cats, and/or other small domesticated household pets (not including farm animals), or for the breeding or keeping of dogs for racing purposes. This includes commercial kennels and other for-profit breeding, selling or boarding operations, as well as Humane Societies, rescue shelters, "no kill shelters," animal control facilities and similar nonprofit operations. It does not include the routine breeding or keeping of animals solely for the personal enjoyment of the owner or occupant of the premises.

Commissioner Chuck Teetsel made a motion to approve the text amendment as presented. The motion was seconded by **Commissioner Randy Murph**. The vote was unanimous (6-0), approving the motion.

Item # 10 – POSSIBLE APPROVAL OF MINUTES FROM THE COMMISSION HEARING OF MAY 19, 2011.

Commissioner Wendell DeCross questioned the completeness of the minutes regarding the motion to second nominate the chairman, and wanted to make sure the minutes reflected who seconded the nomination. **Commissioner DeCross** made a motion to postpone approval of the minutes until the next commission meeting. The motion was seconded by **Commissioner Teetsel**. The vote was unanimous (6-0), to postpone the approval of the minutes.

Item # 11 – ELECTION OF VICE CHAIRMAN

No one in attendance was willing to accept the nomination as Vice Chairman so the item was again postponed.

Item # 12 – REPORT FROM STAFF TO THE COMMISSION.

Greg Loper and **Bill Fraley** gave updates on the upcoming projects for BOS and Planning & Zoning.

Item # 13 – COMMISSIONER'S COMMENTS AND/OR DIRECTIONS TO STAFF: Commissioners may use this time to offer additional comments regarding any item on this agenda, or any other topic; and the Commission may direct staff to study or provide additional information on topics of the Commissions' choosing.

With there being no further business to come before the Planning and Zoning Commission, a motion was made to adjourn the meeting by **Commissioner Ruth Ann Smith**. **Commissioner Chuck Teetsel** seconded the motion. Motion carried unanimously (7-0).

The meeting adjourned at 8:26 p.m.

Approved this _____ day of _____, _____

Chairman, Navajo County
Planning & Zoning Commission

ATTEST:

Secretary, Navajo County
Planning & Zoning Department