

Fremont County Planning & Zoning
6-4-07
Meeting Minutes
County Annex Building

Present: Kip Martindale, Evan Worrell, Glen Pond, Ron Kynaston, Vance Derricott, John Nedrow, Cindy Miller, Kirk Mackert

Staff Present: Jeff Patlovich (Administrator), Molly Knox (Secretary)

Called to order 6:00 pm

1. Work Session – Conant Creek Estates, Royce Klingler

Mr. Worrell discussed the meeting tonight is for Conant Creek Estates.

Mr. Patlovich stated that tonight they were going to review with the new score sheet and how much easier it is going to use this type.

Mr. Martindale stated his concern of why the County Commissioners is on there?

Mr. Patlovich stated that this is the format that will be used from now on.

Mr. Worrell stated that it is up to the Commission on if this is used.

Multiple members stated that it looked good to them.

Mr. Worrell start from top VII.E.2 Wetlands: Open Space Use, commented on spelling of Conant Creek.

Mr. Patlovich stated no build zone from top of ridge to creek where wetlands are. I gave zero due to what I saw did not have no build zone on drawings as of yet.

Mrs. Miller stated that there are setbacks and he has put forth good effort and we should give him a point there.

Mr. Martindale stated no due to the steepness of the area.

Mr. Patlovich stated that it is there and that they have protected the area.

Mr. Mackert stated that they have protected it but they have not enhanced it and it should be left a zero no plus points should be given.

Mr. Worrell stated that it would be left a zero. Next is Stream Corridors/ Floodplains: Open Space.

Mr. Patlovich stated that the commission should be consistent in their scoring.

Mrs. Miller stated that you yourself scored it a zero.

Mr. Patlovich stated that he thought that they have done a nice job of it and that he did not have all of the information that you currently have, and that is why.

Mr. Pinther stated that he is protecting the stream corridors as well as the floodplain.

Mr. Mackert replied that what is it plus points or just a zero.

Mrs. Miller stated that he has not enhanced it at all.

Mr. Patlovich stated to look at the code at the fact that it does not state that it has to be enhanced, there is no requirement.

Mr. Mackert read from the codebook.

Mr. Patlovich stated that is why it should be a zero. He left the floodplain in an open space.

Mr. Mackert read from page 33, section 2 out of the book. Open Space use of Stream Corridors.

Mrs. Miller questioned if all were separate or together.

Mr. Patlovich read that it includes the 100 year floodplain, etc. It does say the positive points may be given.

Mr. Pinther questioned why they don't put that in common area.

Mr. Patlovich stated that they chose not to. If you recall Cold Water Creek they made theirs an open space lot.

Mr. Pond stated that it should be a zero.

Mr. Mackert stated I agree.

Mr. Pinther stated that don't you think that they should have one point for their no build zone.

Mrs. Miller stated that they couldn't build there.

Mr. Patlovich explained that they can but their buildings have to be engineered.

Mr. Pinther stated that if it were common area I would have given him 2 points, but at least one point.

Mr. Worrell had a raise of hands on the points thought to be given.

Mr. Mackert stated that he agreed but it was not placed into a common area or has given public access.

Mr. Worrell next is Open Space 30% Plus.

Mr. Patlovich stated that it is not saying if he can build on them or not but is saying is he protecting that as open space.

Mrs. Miller questioned if the slopes were greater than 30%

Mr. Patlovich responded not all of them but yes there were some.

Mr. Pond stated that he agreed that it should be 2 as the administrator gave him.

Mr. Patlovich reading from application of slopes and stream corridors.

Mr. Mackert questioned what the amount of slope was?

Mr. Patlovich read site characteristics of the application.

Mr. Mackert questioned the amount of acres that could have been set aside.

Mr. Patlovich stated 53 acres were his engineer's numbers.

Mrs. Miller agreed with Glen to hold the 2 on that one.

Mr. Kynaston agreed.

Mr. Pinther stated that it is protected and they should have 2 points.

Mr. Mackert questioned what Cindy had brought up. And read to find his answer.

Mr. Kynaston stated that it needed to be reworded.

Mr. Worrell all agree with the fact of it being reworded, next is 15-30%.

Mr. Nedrow stated that it should be treated the same.

Mr. Worrell all agree 2 points given. The next is VIII.1. Wildfire Hazards: Individual Structures.

Mr. Patlovich stated that he does have CC&R's and that that has been addressed.

Mr. Pond stated that I would go along with what the administrator stated there.

Mr. Pinther stated that it was fair, and if it is in the CC&R's.

Mr. Worrell stated that it is a one, are we in agreement.

Mr. Mackert questioned if the only thing insuring us that it is in the CC&R's?

Mr. Patlovich stated that it could still change, but it is something that we can look at, at the Final Plat stage.

Mr. Worrell all in favor next is Wildfire Hazards: Subdivisions

Mr. Patlovich stated that this is not relevant because there is not any timber.

Mr. Martindale stated that once it is developed no, but it is grass lands but now it will burn.

Mr. Patlovich stated that he is going by what was done with Stephens Ranch and what they had to do for fire safety.

Mr. Martindale stated that it will be a hazard.

Mr. Worrell all okay with zero, next is Wildlife Habitat: Open Space.

Mr. Martindale stated that there is wildlife habitat there.

Mr. Patlovich responded that by the information that we have to go from there is none there, but you have the knowledge of that land, I do not.

Mr. Martindale questioned the maps used of being out of compliance and old and updated maps are available to us.

Mr. Patlovich stated that the current ones are not available to us to be able to adopt so we have to use the ones that have been adopted.

Mr. Martindale and Mr. Patlovich argued the point of the maps being out of date.

Mrs. Miller stated that if you know anything about creeks there is wildlife all over the place.

Mr. Patlovich stated the official county document is what I am telling you and that is the law of the county. Your personal knowledge is important and you can bring that information to us and use it but I have to report the law that the county has in place.

Mr. Derricott stated that you just said that if we have information available to us of personal knowledge It can't be used

Mr. Patlovich reiterated that it is important to receive your personal information on lands but we have to go by the law.

Mrs. Miller stated that we don't need a map to tell us that there is wildlife in the creek bed.

Mr. Pinther stated that he has made it open space.

Mr. Worrell stated that but on top there will be no more grazing.

Mr. Pinther stated that they can still graze below.

Mr. Mackert questioned Kip what wildlife he had seen there.

Mr. Martindale stated all big game and birds of all sorts, most in part to the CRP program.

Mr. Pond stated that they are there and they will still migrate through there.

Mr. Martindale stated that the canyon walls are steep and they will not travel those walls unless they are being chased.

Mr. Martindale stated that yes for grazing in the am and pm.

Mr. Worrell questioned if Elk were there?

Mr. Martindale responded yes also that Wolves, Bears have been seen.

Mrs. Miller stated that even though we don't like it we have to go by the maps that are in use and currently adopted.

Mr. Nedrow stated I agree.

Mr. Pinther I say a score of 1 due to he put a no build zone there.

Mr. Martindale stated that he needed to go on-site.

Mr. Pinther stated that he had.

Mr. Martindale stated that then you should know.

Mr. Pinther stated that the developer has tried to protect that area.

Mr. Martindale stated that it is economics.

Mr. Mackert stated that he agreed with Cindy and read from Code.

Mr. Patlovich also read from the Code.

Mr. Pond recommended to just leave at zero and move on.

Mr. Mackert I agree.

Mr. Pinther I do want to say that we are telling developers that we don't care if they put open space in there or not.

Mr. Patlovich stated that if it is not an identified area then they get a zero.

Mr. Mackert stated that it says no build zone not wildlife migration area.

Mr. Worrell all in favor of zero minus Steve. Next is Wildlife Habitat Plan.

Mr. Patlovich stated that this is the same.

John Nedrow zero.

Mr. Patlovich stated that the code does not allow the developer to come and say I would like to do this.

Mr. Pinther stated that a developer could come in and say that they want to develop a moose patch and because it is not mapped we have to let them knowing that it is there.

Mr. Mackert if they do the extra work to educate and protect.

Mr. Patlovich it does not say but if the IDFG says and it is not on the maps their rules supersede.

Mr. Worrell stated that he now has Elk on his property.

Mr. Martindale stated that CRP has a lot to do with that.

Mr. Worrell next is Native Plants that should stay a zero. Next is Protecting Agricultural Lands.

Mr. Pond asked for comments to be explained to him on the Code § Protecting Agriculture Lands and how Mr. Martindale considers that land in CRP is not considered Agricultural Land.

Mr. Martindale stated that CRP land is still a working farm, and still is Agriculture.

Mr. Pinther stated that the soils say that it is not productive property.

Mr. Martindale stated that the USDA would not be making a payment on that land if it were not productive, they rent that land.

Mr. Pinther stated that our definition of productive land is the soil types.

Mr. Martindale responded no it is not.

Mr. Pinther responded yes it is.

Mr. Martindale stated lets get something straight; it was never determined until Mr. Patlovich showed up and took the position as Planning & Zoning Administrator. When he did he started changing policy as we

are seeing it now. It was never determined that way ever. If it is cultivated or has a CRP contract it is productive Agriculture. It just is.

Mr. Pinther stated that he did not care what you think you want it to be.

Mr. Martindale stated it is, that changed when our current administrator came on. I come from an Agriculture background and I live in that area. I understand USDA, Farm Service Agency, Farm and Ranch and natural resources conservation. Each one of us here is appointed to this Commission from areas and the reason is because we understand that particular area. You have a different perspective then me you come from a contractors perspective and if you are protecting people with building codes and fire codes then I am behind you 100 % but if you are looking at this as potential work, chance of bidding on some of these homes in these subdivisions.

Mr. Pinther stated to Kip don't go there.

Mr. Martindale stated I'm there Steve.

Mr. Pinther stated that we have to go with what productive farm ground is questioned the location Productive Crop Land description.

Mr. Martindale read from the LESA document page 30. Stated that you can interpret any way you wish but the fact is this is how it has been interpreted for the last 6 years that I have been here. It is one in 40 acres.

Mr. Pinther stated to read #2 which says to go to the SCS office in St. Anthony and have the soil maps checked. What did it say on this one?

Mr. Patlovich read from LESA completed on project, it is 45.05?

Mr. Martindale stated that the USDA considers it to be productive farm ground or it would not have a CRP contract on it.

Mr. Worrell stated that is incorrect, you can get a CRP contract if you provide evidence that it has been productive.

Mr. Patlovich stated that the whole discussion is irrelevant.

Mr. Martindale stated that this qualifies 1 house in 40 acres.

Mr. Martindale and Mr. Pinther continued their argument concerning CRP and Code soil types.

Mr. Pinther stated that we are bound to the Codes in place. If you want to change it you have to go to the County Commissioners and do an amendment. And what are we going to go to them with, Kip's standards on CRP?

Mr. Martindale responded no, no, no, USDA.

Mr. Mackert asked Cindy to read on that same page.

Mrs. Miller read first identify the site to be evaluated ... the LESA system does not apply.

Mr. Patlovich stated that the developer has never given me records of the land being in CRP. A LESA was given and failed.

Mr. Worrell questioned that at public hearing didn't he say that he was going to keep the land in CRP?

Mr. Patlovich stated that it did not matter because the information was not given into record and it does not apply.

Mr. Martindale stated that there is a misinterpretation in this building.

Mr. Patlovich stated that is my job not yours, take it up with the County Commissioners if you think you want that job back! You don't have that job anymore! I do!

Mr. Martindale there is a misinterpretation in this office. Mr. Martindale stated that there is a miss determination made by Mr. Patlovich...

Mr. Patlovich stated that is my job not yours!

Mr. Martindale continued when he thinks that if ground has been in CRP for 10 years is now nonproductive.

Mr. Patlovich demanded for the meeting to move on due to he felt that the personal attack on himself was really poor judgment.

Mr. Martindale stated that he did not think it was because you are part of this process and we have to acknowledge it.

Mr. Patlovich stated that this issue is not yours to discuss, the County Commissioners have taken it out of your hands.

Mr. Martindale stated that my problem with you is misinterpretation.

Mrs. Miller cautioned Kip should let it go.

Mr. Martindale responded that I will not!

Mr. Worrell going back to Protecting Agriculture Lands, how do we handle it?

Mrs. Miller stated I feel it should be a zero.

Mr. Pond agreed I feel it should be as well.

Mr. Mackert I am going to make one comment if this is CRP and if it was or was not submitted we have just opened this up for others.

Mr. Patlovich stated that Cold Water Estates subdivision is coming in with a contract and they are exempt.

Mrs. Miller stated this is not going to be the first or the last.

Mr. Martindale stated that is why we need to get this figured out.

Mr. Patlovich stated that my interpretation, which is my job and not yours is that this passes, can we move on.

Mr. Martindale stated that it is up to us as well because it is brought to us.

Mr. Patlovich responded then take it up with your boss's'.

Mr. Pinther read from LESA. I interpret it as it saying go ahead and develop it.

Mrs. Miller stated but the thing is it is adjoining 100 acres of productive cropland and they are thinking lets throw it all together and do it all.

Mr. Martindale stated that we should speak to Lee Nellis being the person who wrote this and see what he has to say about it.

Continuation of disagreement between all on commission.

Mr. Derricott stated that if it has not been used as cropland, pasture, or crop production in the last 10 years it is in conservation so we do apply the LESA.

Mr. Nedrow if you take the two “not’s” out and read, then the LESA system does apply.

Mrs. Miller stated that we have to go with what was given to us, and this was not.

Mr. Martindale stated that at the sketch plan stage, I asked Mr. Klingler how long it had been in CRP, he had received it in 05 or 06. Let these problems bring the light... It looks like Mr. Patlovich is disagreeing with me at the moment.

Mr. Patlovich stated I will always disagree with you on this point.

Mr. Martindale I appreciate that, what I want to do it bring light to the whole problem of trying to rewrite the Comprehensive Plan and the Development Code. At the same time we are trying to do these things...

Mr. Patlovich commented this is the whole Moratorium thing again.

Mr. Martindale, at the same time we are trying to do these things we have the farmers amendment which is not a farmers amendment it is the “Lose with Loosli” amendment, which just further complicates it.

Mr. Pond suggested to leave this one and continue on with the score sheet.

Mr. Worrell All voted on zero with acceptance of Mr. Martindale and Mr. Mackert.

Mr. Derricott stated that he felt Mr. Patlovich was a very intelligent man but reminded him of something that was done when Kip was asked to step off the board concerning Mr. Byrem and any projects he were to bring forth, for the feeling that he would be bias. Now you say you are against Kip.

Mr. Patlovich responded only on this issue.

Mr. Pond stated that this conversation is irrelevant and you can take that up with him after the meeting.

Mr. Worrell next is Land Use Compatibility: Lot Coverage. On page 36

Mr. Patlovich stated to read on, and read.

Mrs. Miller questioned average size of lots.

Mr. Martindale stated that over all they are 6 acres.

Mr. Worrell questioned if a score of zero worked, agreed, zero.

Mr. Worrell next is Land Use Compatibility: Building Height. Questioned what the issue with the Bed and Breakfast on Highway 32.

Mr. Patlovich explained the determination of the height with the building codes.

Mr. Worrell, okay, a score of zero. Next, okay a score of zero, Next Routing Traffic.

Mr. Patlovich stated that this is for multifamily structures, not this.

Mr. Worrell okay with zeros. Land Use Compatibility: Views

Mr. Patlovich asked Kip his opinion on the views.

Mr. Martindale stated that maybe on the south side is all.

Mr. Pond I say zero.

Mr. Worrell okay zero, next zero okay, water zero, fire zero, underground utilities, questioned Jeff.

Mr. Patlovich explained glitch in Code concerning utilities.

Mrs. Miller stated a one is sufficient.

Mr. Worrell okay a one. Next is Arterials.

Mr. Patlovich explained what arterial roads are.

Mr. Worrell zero okay, next is public access provision.

Mr. Pinther irrelevant zero.

Mr. Worrell zero.

Mr. Patlovich calculated it to be a +18 total

Mr. Nedrow stated that if we were to go back redo the agricultural land it would still pass.

Mr. Pinther stated that it will be on the agenda for the next meeting June 18th to rewrite the facts and findings.

Mr. Patlovich stated that it will be in the administrators report, not a regular item.

Mr. Pinther motioned to accept Conant Creek Estates to move on to final plat with a score of +18.

Mr. Pond seconded.

Mr. Worrell any discussion.

Mr. Mackert stated that I feel that the wildlife and agricultural land is going to be an issue until it is updated.

Mr. Patlovich responded that you are always going to have that until you change the Code.

Mr. Mackert stated that if information that is pertinent but not given at the public hearing it will not be considered.

Mr. Patlovich stated that the proper paperwork was done in October.

Mr. Mackert stated that pertaining to this project it has been stated that it is in CRP, and that is all I am saying.

Mr. Worrell all in favor of moving forward with score of +18 Martindale and Mackert voting no. All others are in favor.

Mr. Pinther stated that it needs to be clear-cut, cut and dry.

Mr. Patlovich stated that for the record this is an illegal discussion because it is not on the agenda.

Mr. Worrell questioned the Code status.

Mr. Patlovich stated that on the June 7, new policies would be discussed.

Mr. Patlovich stated that this can be placed on the June 11 agenda.

Mr. Pinther stated that he is requesting the County Attorney to be there.

Mr. Pond I move to adjourn

Mr. Mackert second the motion.

Meeting adjourned at 7:31 pm