

Minutes of the Proceedings
Laramie County Planning Commission
Prepared by the Office of the Clerk of Laramie County
Laramie County Wyoming

Thursday, June 12, 2008

- 080612 00** The Laramie County Planning Commission met in regular session at 3:30 p.m., Thursday, June 12, 2008. Those in attendance were Jody Cark, Chairman; Jim Ward, Frank Cole, Paula Qualls.

Those signing the register were Tom Mason, Scott Zimmerman, Al Simpson, Charlie & Carol Farthing, Adam Patridge, Georgia Alexander, Dave O'Malley, Eva Jeanne Holmes, Buck Holmes, Ed Weppner, John Morris, Bonnie Bath Epler, Brenda Johnson, Bill Bonham, Mike & Tammy Bradbury, John & Aleya Sutherland, Barbara Nelson, Guy Landers, Dan Frank, Teresa Straub, Lyle DeVries, Jodi Rogstad, Brook Wyte, Jim Cotton, Brad Emmons, Rich Nerug, Jim Backus, Don Boswell, Kathryn McKee, Ben Trautwein, John Steil, Dave Phillips, Gary Hickman, Patrick Sullivan, Paul Stockey, Alex Davison, Herb Lorenz, Tom Holm, Phil Long, Susie Lemaster, Mike Grant, Chris Land, Buck & Gerry Wilcox, Jim Cochran, John Anderson, James Willadsen, Iris Willadsen, Sreyoshi Chakraborty, Chris Francis, Nickerson, Dennis Ridley, Anpren Hinckley, Dr. Dawson, Charles & Elizabeth Coursert, Angel John Fiorelli, Teresa Fiorelli.

- 01** Commissioner Paula Qualls moved to approve the Minutes of Proceedings for May 22, 2008. Commissioner Jim Ward seconded the motion which passed by a vote of three in favor, with Commissioner Frank Cole abstaining due to being absent from that meeting.
- 02** Brad Emmons, agent for the applicant, presented the Preliminary Plat for Silver Sage Wind Farm Subdivision, stating access will be of Happy Jack Road and will require permits from the Wyoming Department of Transportation. The developer agrees with the three conditions placed on the Preliminary Plat and they will be moving forward under the regulations when adopted. Abby Yenco, Laramie County Planning, presented the application and stated it was in accordance with the subdivision and zoning regulations and recommended approval with the following conditions: 1) the developer submit a road maintenance and mitigation plan to both the Laramie County Planning and Development Office and Laramie County Public Works for approval with the Final Plat; 2) the existing three parcels be shown on the plat as separate tracts; and 3) access to Happy Jack Road be adequately address on the Final Plat. Commissioner Clark opened the meeting as a PUBLIC HEARING. Hearing no public comment, the Chairman closed the PUBLIC HEARING. Commissioner Qualls expressed concern about the name of the subdivision and possible conflict with an existing residential subdivision of a similar name. Mr. Emmons responded that the name was derived from a plant growing on the property, but the developer has agreed to consider other names at the time of submission of the Final

Plat. Commissioner Qualls moved to recommend the Laramie County Board of Commissioners approve the Silver Sage Wind Farm Subdivision Preliminary Plat with staff conditions one through three. Commissioner Ward seconded the motion, which passed unanimously.

03 John Steil, Steil Surveying Services, agent for the applicant, presented the Preliminary Plat of Archer Acres Subdivision, located in the NW 1/4, NE 1/4, SW 1/4, NE 1/4 of Section 22, T.14N., R.65W., 6th P.M., Laramie County, WY. Mr. Steil stated the purpose of the plat is to split the existing tract into two lots for residential purposes. There has been correspondence with an adjacent property owner who is disputing the property boundaries which were surveyed in 1981 and monuments were set, which according to state law, those monuments called out in the deed are paramount. The adjacent property owner had a new survey conducted in April, 1008 and the surveyor indicated he was unable to locate the original monuments and reset new monuments within 8 to 10 feet of the 1981 monuments. Abby Yenco, Laramie County Planning, stated the plat meets the requirements of the subdivision and zoning regulations and recommended approval with no conditions. Chairman Clark opened the meeting as a PUBLIC HEARING. Applicant Teresa Straub asked for clarification on access to tract two and Ms. Yenco verified that the existing access is acceptable. Hearing no other public comment, the Chairman closed the PUBLIC HEARING. Commissioner Cole moved to recommend the Laramie County Board of Commissioners approve the Preliminary Plat for Archer Acres Subdivision with no conditions and adoption of the staff report. Commissioner Ward seconded the motion, which passed unanimously.

04 John Steil, Steil Surveying Services, agent for the applicant, presented the Preliminary Plat for Bradbury Valley Subdivision, Lot 3, Section 30, T.14N., R.64W., 6th P.M., Laramie County, WY, (Located at 1635 Road 136). Mr. Steil stated the intended use of the property is for a dog boarding facility and introduced Tammy Bradbury who stated the business will consist of 12 kennels constructed like cabins along with grooming and taxi service. Business hours will be from 6:00 a.m. to 7:00 p.m. Monday through Friday, and closed during lunch. Saturdays hours would be from noon to 7:00 p.m. and only drop and pickup would be conducted on Sundays. Abby Yenco gave the staff report and stated the purpose is to create a single tract of commercial land and the recommendation is to approve with the condition that the 100 year flood plain be dedicated as a drainage easement. Commissioner Cole addressed the condition of the easement which requires dedicating an easement to some entity, asking to what entity would the easement be dedicated. Gary Kranse is asking that the easement be dedicated to the County for floodplain purposes. Commissioner Cole asked if the County would maintain the easement to which Mr. Kranse responded that it would not. Commissioner Cole stated that once you dedicate the easement, the person or entity to whom the easement is dedicated becomes responsible for maintenance of the easement. Commissioner Ward asked about designation on the floodplain maps and how it would benefit the County to have it a dedicated easement. Mr. Kranse stated that by placing an easement over the floodplain, no structure could be put in the floodplain

and suggested exploring with the County Attorney another option other than a dedicated easement.

Commission Chair opened the meeting as a PUBLIC HEARING. Jim Cotton, 219 Cascade, stating he has 414 acres across the road from the proposed dog kennel, asked about waste disposal, traffic impact and control of the dogs to prohibit running his cattle into fences. The applicant stated the dogs will be kept inside and not allowed to run at large and that the barking should not be bothersome due to the distance from adjacent neighbors. Hearing no further comment, the Chairman closed the PUBLIC HEARING.

Commissioner Cole moved to recommend the Laramie County Board of Commissioners approve the Preliminary Plat of Bradbury Valley Subdivision. Commissioner Ward seconded the motion, which passed unanimously.

- 05** County Planner Gary Kranse requested this item be withdrawn from consideration at the request of the applicant. Commissioner Jim Ward moved to approve the request to withdraw. Commissioner Frank Cole seconded the motion, which passed unanimously.
- 06** County Planner Gary Kranse presented a request to postpone consideration of the Preliminary Plat for Sam's Place Subdivision until the June 26, 2008 meeting. Commissioner Frank Cole moved to approve the request to postpone. Commissioner Paula Qualls seconded the motion, which passed unanimously.
- 07** John Steil, Steil Surveying Services, agent for the applicant, presented request for a Zone Change for Tracts 1 and 2, of Fox Farm Subdivision. (Located South of East Fox Farm Road, adjacent to Avenue B-4) for the purpose of extending an existing storage unit facility. Abby Yenco, Laramie County Planning, presented the staff report, stating today's action would be to consider just the zone change and that, if approved, the applicant would still need to seek Board approval for the storage unit use. Ms. Yenco stated the request is in keeping with the Laramie County Comprehensive Land Use Plan and rezoning the tracts would bring them into the surrounding zoning; therefore, staff recommends approval with no conditions. Chairman Clark opened the meeting as a PUBLIC HEARING. Hearing no comment, the Chairman closed the PUBLIC HEARING. Commissioner Qualls expressed concern on the traffic impact in the area should a use other than storage units be considered in the future. Commissioner Ward moved to recommend the Laramie County Board of Commissioners approve the zone change from Medium Density Residential Developing (MR-2) to Community Business (CB). Commissioner Cole seconded the motion, which passed unanimously.
- 08** County Planner introduced the proposed amendments to Article V of the Cheyenne and Laramie County Zoning Ordinance, 1988 (Wind Energy Systems) by stating the new regulations to be included in Article V were prompted by three main criteria: 1) protecting road ways within Laramie County as large systems are developed; 2) providing notice to the public that a wind farm was under consideration for development; and 3) removing any infrastructure at the end of the life cycle of a system. Following a number of

public meetings with interested parties and groups, the proposed regulations were modified to incorporate comments primarily on issues involving site plans, set backs, noise levels, and an overall streamlining of the process including the timing of the final engineering documents. Since the time the final draft of the regulations was prepared, written comments have been received from Holland and Hart and PB Alternative Energy. Mr. Kranse stated there is ample time to review those comments and incorporate them into the final draft prior to the Board of Commissioners meeting on July 1, 2009.

As to the issue of setbacks, a considerable amount of time and research has been done on this topic and it related to safety issues and protecting adjacent properties. Platte County's regulations have been reviewed and they include other setback restrictions beside the 1.1 times the tower height; these include distance setbacks from primary structures in a residential zoned area and others. Because it is so difficult to write a one size fits all setback requirement, the variance process was included to not eliminate certain properties from wind development.

Chairman Jody Clark opened the meeting as a PUBLIC HEARING. Susie Lemaster, 1519 Barberry Ridge, stating she fears her property will be devalued if a wind farm is located in the general vicinity, requested the set back requirements be modified to include a minimum 5 mile set back from any existing residential subdivision.

John Francis, 1047 Happy Jack Road, expressed appreciation for the work done by the Planning Department on these regulations and for being willing to incorporate recommendations into those regulations. Mr. Francis stated he represents the South East Wyoming Wind Association, a number of whose members were in the audience today. Their organization is concerned about the following issues: property rights, reasonable set backs, unreasonable regulations, ownership of view sheds, open spaces, economic opportunities for landowners, business owners and the County, promoting domestic and Wyoming grown energy production, use of roads by public contractors, agricultural production, and tax revenue. He put forth the suggestion that rather than the engineering reports required for road conditions as put forth in the draft regulations, a fee be assessed for use of the road during construction of a wind farm.

John Sutherland, 646 I-80 Service Road, addressed individual property rights and compared the Planning Commission's mission as trying to separate two octopi. In the past, he has not been consulted on how erecting a house adjacent to his property would affect his view shed or how drilling a well and installing a septic system would affect his property; now, those same individuals don't want him to have the same rights to use his property to his best advantage. He stated that provided the health, safety and welfare of adjacent property owners is not harmed, property owners should be able to use their property as they choose and there exists no rights to a view shed.

He continued there is an economic opportunity being offered to those who have an unprofitable addiction to agriculture and that unreasonable set backs or regulations could remove available property at a cost of \$200,000 or more. In response to a question posed by Commissioner Jim Ward, Mr. Sutherland recommended a set back of 1.1 times the height of the tower.

Dave O'Malley, 531 South Clinton, Laramie, WY, expressed appreciation to Gary Kranse for the work he had put into the current regulations and said he is wearing two hats --- one as a City of Laramie Councilman and the other as an employee of Invenergy. Mr. O'Malley indicated that industry recommendations on set backs are from 1.1 to 1.5 times the height of the tower. He also expressed the need to protect the people while not giving the developers reason to go elsewhere. In response to a question from Chairman Clark, Mr. O'Malley stated that smaller towers have higher noise outputs and that a 50 decibel limit is workable; also with a 1250 foot setback, some properties would be completely eliminated from being able to have any turbines.

Chris Francis had some data on noise output and recommended increasing the decibel limit to 55. In response to a question from Commissioner Ward, Mr. Francis stated he had done his research on the internet and had used several charts for his data.

Bill Bonham, 1990 Horse Creek Road, supported the setback distance of 1.1 to 1.5 times the height of the tower, which is what is in the Platte County regulations. He also stated the economic benefits of wind farms will far exceed other land uses such as residential and agricultural. In the 1990s, there was a report that for every \$1.00 of tax revenue generated, a rural residential subdivision required \$1.50 in services while a ranch only required \$.70 in services. Wind farms will take much less than that and once construction is completed, the roads servicing the wind farms will probably be private roads.

Chris Land, Renewable Energies, stated his organization is a new wind energy company working in Cheyenne and recommended looking at the regulations passed by the state of Minnesota which has setbacks based on the diameter of the rotors in addition to the height of the towers. If the setbacks are too conservative, many properties will be eliminated for development. Setbacks from industrial uses such as railroads and interstate highways should be reduced to 250 feet which is a sufficient distance to protect adjacent property from a malfunctioning turbine.

Adam Patridge, 9100 Powderhouse Road, expressed appreciation for the exemptions for small systems in the regulations, stating that the number of restrictions being placed on wind towers do not apply to cell towers, water towers, etc. He also suggested a change in the definitions for large and small systems by using the verbiage, "and/or."

Brenda Johnson, 794 County Road 203, asked for clarification about the variance process and setbacks to public roads. Mr. Kranse stated that if there is an agreement between property owners to a setback distance other than that in the regulations, there would be no need to get Board approval for the variance; the agreement would be recorded with the County Clerk. Also, Chairman Clark stated the language in the regulations refers to county maintained roads only.

Tom McLaughlin, 312 Road 102, stated most of his concerns have been addressed, but wanted to bring up the issue of view scopes. In his opinion, if an adjacent property owners wants to protect their view of another's property, they need to compensate the property owner for keeping the view intact, with no intrusions.

John Anderson, environmental advisor for PB Alternative Energy, stated the regulations are sound and the company's comments have been submitted in writing. He did recommend increasing the decibel limit to 55.

Scott Zimmerman, 2070 Road 158, suggested that the language on page 3 for setbacks be changed to "occupied" residential structure to allow for those structures which have been abandoned. He also supported the 1.1 to 1.5 times the height of the tower for setback distances and said it would be similar to Platte County's 1.1 times, indicating Platte County is the only County in Wyoming to have adopted regulations as of this time.

Ron Trees, 1312 Blue Willow Lane, calling himself a NIMBY, spoke to potential affect on values of surrounding properties, indicating it is now an unknown, but four homes in his neighborhood have been put on the market since talk of wind farms in the vicinity began. He does support the notification of surrounding landowners.

Chairman Clark closed the PUBLIC HEARING and asked Mr. Kranse for his comments. Mr. Kranse summarized the concerns raised as follows: 1) signage, guide wires on towers, etc.; 2) destruction of roads; 3) language on county maintained roads and occupied structures in setback requirements; 4) level of decibels and 5) setback distances. As to signage, guide wires, etc. on other towers, those are generally regulated by other jurisdictions. For roads, there is no mechanism in place at this time to recover damages and Mr. Francis's idea of a fee per tower or some other assessment may not be fair as some roads may not be damaged at all. The developers of wind farms seem to be comfortable with the language on road damages as proposed. He agreed to review the language in the setback requirements to address county maintained roads and occupied structures. He also agreed to review the language proposed by BP Alternative Energy on the decibel level.

Commissioner Cole moved to continue consideration of the wind energy development regulations until June 26 and directed staff to have a revised

draft with language addressing the issues raised today, including a formula for setbacks, available on the website as soon as possible. Commissioner Qualls seconded the motion, which passed unanimously.

- 09** MPO Director Tom Mason presented the East Dell Range/US 30 Corridor and Christensen Railroad Overpass Plan and introduced Sreyoshi Chakraborty who gave an overview of the participation in the plan. She introduced Lyle DeVries, Felsburg, Holt & Ullevig0 who gave detailed information through the use of a power point presentation. Commissioner Cole recollected the history of raised, landscaped medians in Cheyenne. Commissioner Ward asked about the time line for Phase I to which Tom Mason responded that none of the proposed work is funded at this time. Commissioner Cole asked if individual landowners from whom right of way would need to be purchased had been informed of the plan. Mr. Mason responded that the public meetings that had been held had been advertised through the website and that some post cards had been sent to notify the public and at least one landowner had attended at least one of the public meetings. Commissioner Cole moved to recommend the Board of Commissioners receive and accept the plan provided all adjacent property owners are contacted personally prior to presentation to the governing body. Commissioner Ward seconded the motion, which passed unanimously.

The meeting adjourned at 7:15 p.m.

CERTIFICATION

I, Debra K Lathrop, Clerk of Laramie County, do hereby certify the above to be a true and correct copy of the Minutes of the Proceedings for Thursday, June 12, 2008

SEAL

Approved by : _____

Debra K. Lathrop
County Clerk

Reviewed by : _____

Jody Clark, Chairman
Laramie County Planning Commission

This information is available in alternate forms. If reasonable accommodations are required, contact Laramie County Human Resources, 310 West 19th Street, Cheyenne, WY 82001, (307)633-4355 within a reasonable time.