

**BOARD OF ADA COUNTY COMMISSIONERS
MINUTES OF THE PUBLIC HEARING
WEDNESDAY, FEBRUARY 13, 2013
6:00 P.M.**

The Board of Ada County Commissioners (Board) met this date in the Ada County Public Hearing Room of the Ada County Courthouse Complex. Staff present: Richard Beck and Brent Danielson, Development Services; and Ray Chacko, Prosecuting Attorney's Office. Minutes Recorder: Judy Morris.

I. IN THE MATTER OF CALL TO ORDER:

Commissioner David L. Case called the meeting to order at 6:00 p.m.

II. IN THE MATTER OF ROLL CALL:

Commissioners David L. Case, Jim Tibbs and Rick Yzaguirre were present.

III. IN THE MATTER OF CHANGES TO THE AGENDA:

There were no changes to the agenda.

IV. IN THE MATTER OF NEW BUSINESS:

1. 201200911-ZC: ADA COUNTY: A zoning ordinance map amendment to revert the zoning of the subject property from the Community Commercial (C2) District and the Very High Residential (R20) District back to the Rural-Urban Transition (RUT) District and the Estate Residential (R1) District; and the termination of Development Agreement No. 8454. The property is located at 8640 West State Street, Section 24, 4N, 1E

D. Case read the application into the record and opened the public hearing.

R. Beck submitted Exhibit No. 31 into the record. He then presented the Staff report and advised the Board that the Planning and Zoning Committee was recommending the application be denied. He explained that there was significant interest expressed by the public during the original entitlement development applications in 2008. He stated the original design approved in 2008 included townhomes and five commercial lots. He said the new property owners do not have any desire or plans to proceed with the original design or product type. He advised that the new owners envision a multi-family project that includes access from Rose Street. He stated that the representative for the new property owner has also indicated that they are amenable to tabling this request to allow the owners an opportunity to submit a new application. Staff's recommendation is to table the application to allow Staff an opportunity to re-notice the application to more clearly convey the Board's intent to deny the application. Alternatively, he requested the Board table the application to allow the new property owners an opportunity to submit a new application using the existing zoning of the subject property.

R. Yzaguirre requested R. Beck explain the process in further detail. R. Beck explained that either option would be placed on an agenda to be heard at a future public hearing. R. Beck stated that if the Board tabled the application to be re-noticed, the findings of fact and conclusions of law would not change. He said the only change would be the legal description provided to the public relating to the action that the Board intended to take. He explained that if the Board desired to allow the new property owner to submit a new application, the matter would be tabled to a later date to provide them an opportunity to present a new design within the parameters of the existing zoning designation.

Scott Noriyuki of Northside Management stated his name and address for the record. He advised the Board he represents the current owners of the property which is not associated with the initial subdivision and development. He presented testimony requesting the matter be tabled to allow his company time to submit an application using the current zoning. He said they intended to submit an application using the same type of density and use, although somewhat modified.

D. Case closed the public hearing.

The Board and Staff discussed tabling the application and bringing a new application before the Board at a public hearing.

ACTION: R. YZAGUIRRE MOVED TO TABLE APPLICATION NO. 201200911-ZC: ADA COUNTY TO MAY 8, 2013; GIVING THE APPLICANT AN OPPORTUNITY TO SUBMIT A NEW SITE PLAN WITH THE PROPER TRANSMITTALS AND PUBLIC HEARING TO BE INCLUDED. J. TIBBS SECONDED. R. YZAGUIRRE, AYE, J. TIBBS, AYE, AND D. CASE, AYE. THE MOTION CARRIED UNANIMOUSLY.

2. **201201039-A: SCOTT PRASCH:** An appeal of the Director's decision to partially deny approval of an application for an accessory use permit for a large home occupation. The property is located at 457 North Longhorn Avenue, Section 10, 4N, 1W

D. Case read the application into the record and opened the public hearing.

R. Beck presented the Staff report. He stated that the Director found that the proposed home occupation for Boise River Door and Glass included two distinct elements. A portion of the existing home was being used as a home office, while an existing shop and gravel area on the property was being used to store equipment and supplies, construct door and window frames and for loading vehicles. He advised that the home office was approved. The use of the shop and gravel area was denied because they didn't fully conform to the home occupation standards and it functioned more as a contractor's yard.

D. Case inquired whether Applicants had the availability to apply for a conditional use permit for the accessory building. R. Beck stated the RUT zoning does allow a homeowner to apply for a conditional use permit for a contractor's yard or shop. He advised it was limited in duration to five years or upon annexation, whichever occurs first.

J. Tibbs inquired if there were similar uses in the area. R. Beck stated he was unaware of any approved uses in the area similar to Applicant's request.

Applicants, Scott and Tami Prasch, stated their names and address for the record. S. Prasch presented testimony explaining that the home was purchased through a short sale with the expectation of being able to use the property for a home business. He explained that prior to purchasing their existing property, their business was conducted on their residential property located in Boise. He described their business, the contractor shop and home office. He explained that he was unaware that he had to apply for permits for the shop as he did not believe it would be considered a contractor's yard. He said they do not conduct retail sales on the property and do service jobs at the customer's site. He said they have very little traffic to and from their property. He said the shop was primarily used for storing door parts and metal for frames. He said they also store personal items in the building as they do not have a separate garage. He stated that they do not have plans of expanding their business. Applicants presented photographs of their property, shop and surrounding properties and submitted them into the record.

J. Tibbs clarified that the shop was located behind the house, not visible from the road. He then asked R. Beck if the conditional use permit could be extended past the initial five years. R. Beck explained that there was not a provision to extend a conditional use permit, but Applicants would be able to apply for a new permit at the end of the five year period.

Craig Anderson stated his name and address for the record. He presented testimony opposing the application. He stated that the neighborhood was agricultural and he did not believe it was conducive to running a business of any kind. He said he believed that approving the application would decrease their property value.

Jaynie Horton stated her name and address for the record. She presented testimony opposing the application. She advised the Board that her residence is South of Applicants' property and that building in question was visible from her back yard. She said she opposed the permit for three main reasons. She stated that application goes against the restrictive and protective covenants of the subdivision, it would

decrease the property values and open the door for further commercial business opportunities. She express her concerns regarding the safety and privacy of the neighborhood.

Jim Shippers stated his name and address for the record. He presented testimony opposing the application. He stated traffic has increased since Applicants have started using their property for business and he believes that is impeding the safety and relaxing environment of the neighborhood. He reiterated previous testimony regarding the restrictive covenants of the subdivision.

Susan Howell stated her name and address for the record. She presented testimony opposing the application. She restated the concerns expressed in previous testimony regarding increased traffic, increased traffic speeds and the safety of the children and neighbors.

Fred Carpenter stated his name and address for the record. He presented testimony opposing the application. He said he purchased his residence because of the restrictions in the covenants banning commercial use of the property. He advised the Board that Applicants continue to do business on their property even though their original application for a contractor's shop was denied. He reiterated previous testimony regarding the reduction of property values caused by commercial use of Applicants' property, as well as the safety for the neighbors, children and animals because of the increased traffic and traffic speeds in the subdivision.

R. Beck advised the Board that the photographs and aerial photography presented by Applicants were entered into the record as Exhibit 20.

Applicants re-approached the podium to respond to the testimony presented and submitted additional documentation relating to their business. T. Prash stated that there was another home business in the neighborhood and submitted documents relating to that business. She submitted documentation showing the business currently only has one employee and one van that comes to their property. T. Prash stated that she believed that the short sales impacted the values of the homes, not their business. She said their property value has increased since they purchased the property. She argued that UPS and other vehicles drive at increased speeds, not Applicants, their employees or family.

R. Beck entered the documents submitted by Applicants as Exhibits Nos. 21 through No. 27 and read them into the record.

D. Case closed the public hearing.

ACTION: R. YZAGUIRRE MOVED WITH REGARD TO APPLICATION NO. 201201039-A: SCOTT PRASCH, BASED ON TESTIMONY RECEIVED AND THE RECOMMENDATIONS OF STAFF, TO DENY THE APPEAL OF THE DIRECTORS DECISION AND UPHOLD THE ORDER READ INTO THE RECORD AS FOLLOWS: BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN, THE DIRECTOR HEREBY APPROVES THE USE OF THE OFFICE COMPONENT OF THE PROPOSAL AS A LARGE HOME OCCUPATION AS DESCRIBED IN APPLICATION NO. 201201039-AC AND SUBJECT TO THE CONDITIONS OF APPROVAL ATTACHED; AND ALSO BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW, CONTAINED HEREIN, THE DIRECTOR DENIES APPROVAL OF THE USE OF SHOP AND YARD COMPONENT OF THE PROPOSAL AS A HOME OCCUPATION OR AS A CONTRACTOR'S YARD OR SHOP; SO, IT'S A PARTIAL APPROVAL AND PARTIAL DENIAL. J. TIBBS SECONDED.

DISCUSSION: J. TIBBS THANKED THE CITIZENS FOR ATTENDING THE HEARING. HE EXPLAINED THAT THERE ARE MANY ASPECTS IN MAKING A DECISION

AND HE BELIEVED THE COMMISSIONERS' ROLE WAS TO UPHOLD THE LAW. R. YZAGUIRRE STATED THAT APPLICANTS DID HAVE AN OPPORTUNITY TO PURSUE A CONDITIONAL USE APPLICATION.

ACTION: R. YZAGURRE, AYE, J. TIBBS, AYE, AND D. CASE, AYE. THE MOTION CARRIED UNANIMOUSLY.

- 3. 201201434-S-PR: RESCUE RANCH SUBDIVISION:** A preliminary plat and private road application for Rescue Ranch Subdivision consisting of four (4) residential lots and one (1) common lot for the private road. The property contains 41.04 acres and is located at 7200 South Locust Grove Road, Section 5, 2N, 1E

D. Case read the application into the record and opened the public hearing.

B. Danielson submitted Exhibit Nos. 40, 41 and 42 into the record and presented the Staff report. He explained that the Planning & Zoning Commission (Commission) agreed with Applicant of not following the city of Meridian's recommendation for the sewer easement. The Commission found Applicant's willingness to dedicate fifteen feet for the sewer easement was adequate and fair.

Barry Semple of River Ridge Engineering stated his name and address for the record. He stated he was present on behalf of the applicant. He stated that he was in agreement with Staff's findings of fact and conclusions of law and the conditions of approval approved by the Commission.

R. Yzaguirre inquired whether B. Semple was in agreement with the sewer easement proposed by the city of Meridian. B. Danielson stated that there was a representative from the city of Meridian's Public Works Department that may be able to address the Boards questions regarding the city of Meridian's position.

B. Semple noted that at the Commission hearing, the Commission found in Applicant's favor that the easement being requested by the city of Meridian would be severely restrictive to the proposed development. He explained that it could be decades before sewer is required by the city.

Wyatt Johnson stated his name and address for the record. He read a memorandum supporting the decision of the Commission into the record and submitted it as an exhibit. He explained that the additional easement the city of Meridian is requesting is too ambitious and has no bearing on the project as proposed. He said that in order to require the dedication of properties as a condition of approval, there must be a specific and presently contemplated, immediate improvement.

Clint Billsby, Assistant City Engineer, city of Meridian, stated his name and address for the record. He presented testimony explaining that the additional easement requested by the city is due to the current easement being located on top of a ditch. He said maintenance of the easement would be difficult.

D. Case inquired what the anticipated development time line for use of the easement by the city was. C. Billsby confirmed that it could be decades or sooner depending upon development in the area. D. Case inquired if the easement proposed by Applicant complies with the city of Meridian's comp plan. C. Billsby stated that he believed it complied with the land use, but was unable to answer with 100% accuracy. B. Daniels stated that it did comply with the land use designation.

J. Tibbs inquired whether the city of Meridian intended to extend sewer for this development. C. Billsby affirmed it would not extend to this project.

Patty Hagler stated her name and address for the record and presented testimony supporting the application. She explained that the city's request that the sewer easement be extended was unreasonable and would encroach on her property. She submitted a photograph into the record showing where exactly the easement would encroach her property. She stated that she believed the easement would affect her future ability to sell her property.

D. Case inquired who owned the ditch. P. Hagler said it was simply a natural drain that catches run off water from the farms. She said water did not flow through it, but seeped through it. She believed the collective property owners owned the ditch.

Applicant, Robert Bruno, stated his name and address for the record and stood for questions. He stated that the city did not need the easement at this time.

D. Case closed the public hearing.

D. Case expressed his concern with the easement extension being so close to the well, as identified by P. Halger, and the effect it may have on the quality of water once the sewer line went in.

ACTION: R. YZAGUIRRE MOVED TO APPROVE THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT FOR APPLICATION NO. 201201434-S-PR: RESCUE RANCH SUBDIVISION. J. TIBBS SECONDED. R. YZAGUIRRE, AYE, J. TIBBS, AYE, AND R. YZAGUIRRE, AYE. THE MOTION CARRIED UNANIMOUSLY.

V. IN THE MATTER OF ADJOURNMENT:

There being no further business to come before the Board on this date, the meeting was adjourned at 7:33 p.m.

Chairman

ATTEST:

Christopher D. Rich, Ada County Clerk