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DEPARTMENT OF PUBLIC WORKS
June 17th, 2021
PRE-MEETING WORKSHOP
CAMPBELL COUNTY PLANNING COMMISSION

The June 17th pre-meeting workshop of the Campbell County Planning Commission began at 6:00 P.M. in the Public Works conference room. Members present were: Bob Jordan, Harry Averett, Kurt Siebenaler and Todd Hildebrand. Staff present were Matt Olsen, Director of Public Works, Sam Proffer, Planning and Zoning Administrator, and Clark Melinkovich, Senior Engineer & County Recorder.

No official action was taken.

The workshop adjourned at 7:00 P.M.

Sam Proffer
Planner and Zoning Administrator

MEMBERS PRESENT

Todd Hildebrand, Chairman
Bob Jordan, Vice Chair
Harry Averett, Member
Kurt Siebenaler, Member
Marc Matlick, Member

MEMBERS ABSENT

STAFF MEMBERS PRESENT

Sam Proffer, Planner and Zoning Administrator
Clark Melinkovich, Senior Engineer & County Recorder
Matt Olsen, Public Works Director

The meeting was brought to order at 7:00 p.m. by Chairman Hildebrand.

Approval of Minutes

Commissioner Hildebrand asked if the Commissioners had reviewed the minutes from the May 20th, 2021 meeting. Senior Engineer Clark Melinkovich called the Commissioners attention to a modification that had been made to the minutes of that meeting where the minutes called the Cox Subdivision request a Rezoning request. This error was corrected by staff. Commissioner Siebenaler made a motion to accept the minutes as amended. Motion was seconded by Commissioner Jordan. All voted aye. Motion carried.

Case No. 21.02 COZ

Commissioner Hildebrand introduced the case and asked staff to present. Planner and Zoning Administrator Sam Proffer presented the case and could not recommend approval based on incompatibility with Chapter 7 Zoning regulations, specifically Industrial Zones should not be adjacent to Residential, incompatibility with the County's Future Land Use Map, and the Comprehensive Plan's goal of avoiding industrial uses on gateway entrance highways.

Commissioner Hildebrand asked if there were any comments on this request. Sam Proffer had none, but Senior Engineer Clark Melinkovich had received a phone call from Roger Granby against it.

Commissioner Hildebrand opened the floor for public comment.

Jason Walker, agent for the applicant approached the commissioners and stated that the owners had felt like they made a mistake in rezoning the land in 2004 to a C-1 classification and that it didn't fit the needs of the use for their business. Mr. Walker said that conversations with his client led him to the conclusion that the current zoning was

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not appropriate for his business and that it would be worthwhile to bring it back to the County to review and correct a mistake and change the zoning to reflect the use of the land.

Mr. Walker went on to say that his client had been running an oilfield coal-bed type business since 2004 to 2014 at that location when it was zoned R-R and that was why they had requested a zoning change back then.

Commissioner Hildebrand asked Mr. Walker to clarify if one parcel was zoned C-1 in 2004. Mr. Walker said yes. Mr. Walker said that it still didn't fit the oilfield coal-bed type business that was being operated at that location. Mr. Walker stated that perhaps the C-1 classification was different in 2004 than it is now. Mr. Hildebrand said that they did not know the answer to that question.

Commissioner Hildebrand asked Mr. Walker what was the use that they didn't feel fit for a C-1 zone. Mr. Walker said that there was a trucking business, mechanic shop, frack-tank business, and some manufacturing/fabrication.

Mr. Walker noted staff brought to his attention the 2013 County Comprehensive Plan and the Future Land Use Map which he was previously unaware of. Mr. Walker produced several slides of maps that he had created from the County website to demonstrate that I-1 zoning was an acceptable classification for his clients' land based on his understanding of the Comprehensive Plan and Future Land Use Map.

Mr. Walker pointed out that he was unaware that the Comprehensive Plan would even be brought up in the conversation in the possibility of changing the zoning since the property is past the 1-mile boundary of the Future Land Use Map. Mr. Walker also stated that he was familiar with the nature of County zoning and land use processes and that sometimes there are exceptions.

Mr. Walker brought up the subject property (Fortner) and the un-zoned properties around the area such as the one to the east that is used for heavy industrial purposes that the County is unable to regulate. He also pointed out that the Fortner property had always been used for industrial type purposes to the best of his knowledge and that he was unaware of any complaints about the activity from any of the surrounding residential properties.

Mr. Walker again brought up the Comprehensive Plan and how market forces seem to indicate that there is a need for allowing industrial forces in this area (near the Fortner property). Mr. Walker submitted more maps for consideration and how the City of Gillette and the County planning and zoning overlap each other. He showed several maps that showed Industrial Zoned properties that he felt were similar circumstances to the Fortner property where Industrial Zones were allowed next to Residential Zoned properties. There was general discussion between the Planning Commission and Mr. Walker over specific details of each case presented.

Commissioner Averett addressed Mr. Walker and asked him about what the Fortner's were doing at their location now that wouldn't already be allowed in a C-1 Zone. Commissioner Averett gave examples of what he could do with his automotive repair business in a C-1 Zone when he was in business. Commissioner Averett questioned the need to re-zone the property because he didn't see the need based on how it was currently being used stating that he thought it was in keeping with a C-1 Zone. He pointed out that both the County and the City both tried to keep industrial areas near transportation infrastructure, etc., so that those types of businesses could sell and transport their products. Commissioner Averett pointed out that the Fortner property was working on their own equipment, etc., and were not selling fabricated products to the public or industry, therefore didn't need to be rezoned to an Industrial classification.

Mr. Walker then showed several more slides of Industrial areas in and around the County and City of Gillette that showed homes and similar type uses adjacent to Industrial zones. Chairman Hildebrand thanked Mr. Walker for his presentation but commented that most of those properties had been zoned a long time ago. He also explained that the County was trying to prevent those sort of zoning situations in the future and that just because those situations exist, doesn't mean that it is a good thing. He also commented that a lot of those Industrial uses were pre-existing, and the homes were built up around them.

Commissioner Averett commented that he can remember this sort of thing happening over the years and that the people who needed land to build houses voluntarily decided to build houses near the Industrial areas, not the other way around. He also stated that this rezoning request was based on the desire for an Industrial zone to be placed in a residential area. He also stated that even though there are not a lot of people there now, the area is growing and people are looking for land to build on and Commissioner Averett felt that we didn't need another Industrial zone south of town in his opinion.

Commissioner Jordan noted that he is a long-term resident of Campbell County and that he saw the boom-bust cycle where industry came in and then homes needed to be built and people chose to build homes nearby. He said that this has been a problem for a long time in the County. Commissioner Jordan stated that it's different when Industry is existing, and people choose to move next to it rather than an Industry moving next to a home. He stated that this creates problems for the residences.

Mr. Walker had no further comments at this time. Commissioner Siebenaler noted that the property is for sale and asked Mr. Walker if the property being for sale was a factor in the zoning. Mr. Walker said that he did have a person interested in the property but were reluctant to purchase it without being assured that they could run their business. Commissioner Siebenaler asked Mr. Walker if this rezoning request was more about trying to make a sale of the property than trying to accommodate for what the Fortner's are doing with it. Chairman Hildebrand said that this may be more about the sale of the property than what the Fortner's want to do with their property. Mr. Walker

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acknowledged that did factor some but that he also didn't feel that the current use was in keeping with the current zoning classification.

Chairman Hildebrand then invited the public to come forward.

Ms. Darva Rye, 953 State Highway 50 and said that she had experience with the situation from a previous letter that she had received back in 2004. Ms. Rye stated that in 2006 Mr. Fortner approached her to establish a small water well service company at the 874 Highway 50 location and that he was a small business owner (a beekeeper) from Montana. She did not know what his zoning was at the time. Her and her husband moved to their current location in 2001. She knew that he wanted to start a business, but not that he wanted to establish a commercial zoning. She stated that not very long later that she started seeing a fleet of semi water trucks. She noted that there was a 1,750 ft. water well that Mr. Fortner was using to fill the trucks and that shortly thereafter her water well began to lose pressure and have a smell. She had the water tested and it was still within safe limits but was getting worse. She noted that her neighbors had also began to have water well issues with smell and lack of water. She noted that it got so bad that she could only wash clothes certain days of the week, but even then, the clothes smelled.

She also stated that there was a traffic safety issue. She noted that at one time there were 22 tankers for 3-Rivers Water Well Service pulling water out of the well and utilizing Highway 50 and the water table. There was a big issue at what time of the morning they could access Highway 50. She noted that Highway 50 is a narrow two-lane with narrow shoulders and few passing lanes. She stated that there had been fatalities in front of her residence because of the heavy truck traffic of both water tankers and methane & oil truck traffic. Ms. Rye said that they were previously accessing their property from Highway 50 but were concerned about the danger since they themselves were nearly in an accident turning into their property, so they changed their access to off Bell Rd.

Ms. Rye said that there was a third issue she has is the noise issue. She complained of the Fortner's trucks using their Jake Brakes and general noise from the business was a nuisance. She also noted the impact on the wildlife. She noted that before the Fortner business started there was a lot of wildlife in the area, but it had significantly diminished since the Fortner's business started.

Ms. Rye then read the letter that the Fortner's had sent to the Planning Commission verbatim. (See letter in application packet.)

Ms. Rye then commented that the business had bothered them in the past and that it was their fault (the residents) that they did not complain to the County previously, but that they were complaining now. She said that they were against this rezoning and that she felt there was an issue of integrity when the business was previously presented to them. She said that people that are living in the area do not want this sort of business around them. She said that she researched the area and the Highway 50 was one of the few major highways coming into Gillette that still didn't have a lot of Industrial areas along the highway. She said that it is a beautiful area. She said she wished all the areas were zoned

so that it could be controlled. She reiterated that she objects and protests any zoning change.

Chairman Hildebrand asked if anyone else wished to speak.

Ms. Twila Stensland, 869 Highway 50 then approached the Commission. Ms. Stensland stated that she lived directly across the road from the Fortner property. She asked to be able to read a petition letter that she wrote and then gave a copy to the Commissioners. The petition was signed by 14 adjacent property owners. (See attached copy).

The letter touched on zoning, compatibility of surrounding areas, buffering, current land use by the Fortner's, etc. The letter ends by saying that they are opposed to the rezoning, but if it is approved that buffering standards should be fully enforced.

Ms. Stensland went on to say that the property hasn't been actively being used by the Fortner's for the past year or so, and that the only reason for the rezoning is so that they can sell the property. She is opposed to the Industrial zone because they don't know who their neighbors would be. She also said that any potential heavy industrial uses would cause safety issues. Ms. Stensland said that because the property is not in use, that she felt it was deceitful and giving the wrong impression on the Fortner's part to ask for a rezoning because they simply wanted to sell the property, and that they were not using it. Ms. Stensland also pointed out that it was the Fortner's realtor who was presenting at this meeting and not Mr. Fortner himself. She ended by saying that they were there first and that there were complaints from neighbors and asked the Commission to deny the request.

Chairman Hildebrand then asked if anyone else would like to speak.

Ms. Carolyn Yake, 68 Sylvan Road approached the Commission. Ms. Yake said that they bought the property in 2000 and moved to the property in 2011 and drilled a well and originally had good water, but 3 years later they began to have trouble with their water well. She said someone told her that 3-Rivers Well Service (the Fortner property) had drilled a well and she called the State office in Cheyenne to ask about the Fortner's well. She said that the person she talked to in Cheyenne said that 3-Rivers Well Service did have an application on file for a well, but not for commercial purposes. She said that she told the person in Cheyenne that the Fortner's were running a commercial water supply service from a well. Ms. Yake said that the person in Cheyenne then said that they (the state) did not have a completed water well drillers report from the Fortner's, 3 years after the date of the application.

Ms. Yake then said that the realtor should check with the State if the well that the Fortner's had was in fact legal. Ms. Yake made general comments about well permitting processes. Ms. Yake also said she felt that what the Fortner's were using the property for was not legal and that she felt that there was a lot of things that were not right and that Mr. Fortner was asking for the zoning change to cover his mistake.

Commissioner Siebenaler asked Ms. Yake about the condition of her water well now. Ms. Yake said that it got so bad that they had to drill a new well, but the new well was no better than the original well. She said that it was not like that before. One of the other Commissioners asked the cost to drill the second well. Ms. Yake answered (inaudible.)

Chairman Hildebrand then asked if anyone else would like to speak.

Mr. Roger Ganske, 620 Highway 50 approached the Commission. Mr. Ganske said that he lived some distance from the property, but he wanted to speak for the landowners in that area because he feels that the landowners adjacent to the Fortner property would lose out. He said no one wants to live next to a salvage yard and that the surrounding properties would lose value. He asked the Commissioners to deny the zoning change. The Commission asked Mr. Ganske how long he had lived at his residence. Mr. Ganske said he bought the land in 1995. The Commission asked by show of hands how many people bought their property before 2003. (Several hands went up; no count was taken.)

Chairman Hildebrand then asked if anyone else would like to speak.

J.W. Hammond said that he owned the (70 acre) property directly across the road for 10 years but he has not built on it yet. Mr. Hammond said that he was aware of the water problems across the road. Mr. Hammond said that he felt it was dishonest in nature by the Fortner's that they had used the property for commercial and the neighbors have suffered and that Mr. Fortner was simply trying to maximize the value of his property by rezoning it to Industrial. He also stated that there were safety concerns for the property and that there was a fatal accident at one time and that the Fortner's had blocked off one of the entrances off Highway 50. He said that he strongly opposed the rezoning to Industrial and if anything, it should be rezoned back to residential. Mr. Hammond reiterated that he thought it was dishonest in nature or else Mr. Fortner would be here in person himself.

Chairman Hildebrand then asked if anyone else would like to speak.

Mr. Steve Stinsland, 869 Highway 50 approached the Commission. Mr. Stinsland said that he wanted to bring up the accidents mentioned before again because previously trucks entering the Fortner property at one time had to stop in the middle of Highway 50 and get out to open the gate. Mr. Stinsland then discussed with the Commission how much of the property was zoned C-1. It was clarified that both lots are C-1. Mr. Stinsland said that if it is approved, they need to provide good buffering. Mr. Stinsland also said that he felt that the applicant only wanted to rezone it so they could get more money for it and that he didn't want to live next to a lot of noise or a junk yard or similar.

Chairman Hildebrand then asked if anyone else would like to speak.

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Mr. Walker, agent for the Fortner's approached the Commission. Mr. Walker wanted to address previous questions and comments regarding sizes of adjacent commercial properties in un-zoned properties and provided lot sizes for various businesses close to the area. Mr. Walker then read the definition of uses for C-1 and said that he didn't think that the zoning was appropriate. Commissioner Averett said that he thought that the Fortner's were compliant with the zone that they were currently in. There was general discussion about when the property was first subdivided, zoned and portions sold off. Commissioner Jordan commented about zoning changes and timelines and history of the property. Mr. Jordan commented that he thought that not much had changed since the property was previously zoned. Commissioner Jordan also asked what any prospective buyers might do with the property and if there would be additional truck traffic. A prospective local buyer was interested in it but was afraid to move forward with an industrial paint and sand blasting company because the buyer felt that they might not meet County zoning regulation requirements.

Chairman Hildebrand asked Zoning Administrator Proffer if this type of business would be allowed in a C-1 zoning district. Mr. Proffer stated that it was his understanding of the regulations that if it was operated in an enclosed building then the answer would be yes. If it was a business that had vehicles in disrepair in view outside the building it would not be allowed. Chairman Hildebrand said that he was more concerned about storing vehicles and things outside. Clarification was made that businesses like car and truck dealers would be acceptable in a C-1 zone but not a commercial construction supply yard.

There was several minutes of conversation in the audience that was inaudible where the speakers were not identified. There was also some conversation about adjacent properties for sale.

Chairman Hildebrand then asked the audience if there was any new information or anything that someone would like to add to the conversation.

One of the audience members asked if the property was currently in compliance. County Engineer Melinkovich responded by saying that there may be some issues at this location, but staff had not investigated. He went on to say that the County does have a process where complaints from the public can be made. Commissioner Averett provided some history on the land in question and provided details of the Planning Commission meeting minutes from 2004 when Mr. Fortner had first subdivided and zoned the property. Commissioner Averett said that it appeared from the 2004 meeting notes, that there was some confusion back then on how to zone the property.

There was more general conversation from unidentified audience members that discussed the use of the property vs. what was an allowed use. Chairman Hildebrand stated that he felt the central theme of this conversation was that it appears that Mr. Fortner is not doing anything out of compliance currently based on the status of little business activity at the site. Chairman Hildebrand stated that it appeared that the rezoning request had more to do with trying to make the property more marketable than it did to bring it into compliance with any County regulations. Mr. Hildebrand said that if the County had received

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complaints about the property being out of compliance there might be a different discussion, but since this ‘came out of left field’ and there wasn’t really any reason to rezone the property to bring it into (zoning) compliance, he wasn’t buying into it.

Mr. Walker stated that part of the rezoning request was at his urging based on his knowledge of how Mr. Fortner had used his property in the past and his understanding of the zoning laws for this location, but thanked Chairman Hildebrand for clarifying that he (Hildebrand) thought it was in compliance. Commissioner Averett reiterated his concern that the request was simply to make the property easier to sale.

Commissioner Averett made general comments how that the neighbors were free to make complaints to the County if they felt that the use of the property was not in compliance for its’ current zoning. He went on to say that the concern was over who might use the property in the future if it is rezoned to Industrial.

There were several more inaudible comments from unidentified individuals from the audience. Senior Engineer Melinkovich asked that anyone who wished to speak to please come forward to the microphone and identify themselves.

Ms. Twila Stensland approached the Commission and stated that she was concerned about being able to sell her home and home value in the future. She said that while it is her home now, at some point in the future she may want to sell.

Mr. Walker asked all the Commissioners if they thought that the Fortner property is compliant with the zoning regulations. County engineer Melinkovich said that they should really get staff input on that question and that had not been really analyzed. Chairman Hildebrand asked Zoning Administrator Proffer if the property is compliant. Mr. Proffer explained that staff would have to look at historical data to at least 2004 to see what everything had been used for and that the property may be a legal non-conforming use. Mr. Proffer did clarify that a C-1 zone does not allow for industrial storage. Mr. Proffer read an excerpt from Chapter 7 zoning regulations defining what type of storage was and was not allowed.

An unidentified audience member again asked why the Fortner’s wished to rezone and the Fortner’s agent Mr. Walker responded again that it was his (Mr. Walker’s) idea to rezone based on his reading of Chapter 7 zoning regulations because Mr. Walker felt that what the Fortner’s had always used it for was more in line with an Industrial use.

Chairman Hildebrand asked staff if they knew when the current shop building was built. Zoning Administrator Proffer said that a building permit was issued in 2004 for commercial truck repair with office space in part of it. Commissioner Jordan wondered if the current use was compliant with the existing zoning. County Engineer Melinkovich stated that the staff report did not analyze if the property is compliant with current zoning regulations, only on the request at hand. Mr. Melinkovich said that staff could research the topic and provide that information to the Commission if they would like for us to do so.

Mr. Walker clarified for the Commissioners when the buildings were completed on the property. The shop building was completed in 2005 and the second shop on the north parcel was built in 2007.

Chairman Hildebrand stated that if there were no further discussion, he would entertain a motion. Commissioner Siebenaler made a motion to approve Case 21.02 COZ to rezone the properties in question and was seconded by Commissioner Jordan. County Engineer polled the Commissioners.

Voting was as follows:

Commissioner Jordan:	Nay
Commissioner Averett:	Nay
Commissioner Siebenaler:	Nay
Commissioner Matlick:	Nay
Chairman Hildebrand:	Nay

Motion to approve failed. 5/0

Chairman Hildebrand thanked everyone who attended and provided input and urged the audience to contact staff if they had other questions or comments.

Old Business

Senior Engineer Melinkovich briefed the Commissioners on the Dove Creek Subdivision that had been tabled at the previous Planning Commission meeting. Mr. Melinkovich said that staff had reached out to the applicant to check on the status of the project and that the applicant was still working through some issues and would get back with staff.

Senior Engineer Melinkovich also pointed out that this meeting was Commissioner Matlicks' last meeting. All present thanked Mr. Matlick for his service.

Adjournment

There being no further business to come before the Board, Chairman Hildebrand adjourned the meeting at 9:01 p.m.

Chairman Hildebrand, Planning Commission Chairman
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NOTE: Campbell County Planning Commission meeting minutes contain a summary of discussions and are not intended to be verbatim.