

Public Hearing
Schoenberg Subdivision Appeal
August 22, 2007

Present for the hearing were Commissioners Paul Romrell, Commissioner Skip Hurt, Commissioner Donald Trupp, Attorney Karl Lewies, Clerk Abbie Mace, Planner II Joshua Chase, and Deputy Clerk Suzanne L. Bagley to take minutes.

Hearing Office Trent Grant explained the procedures for the hearing.

Hearing Officer Trent Grant read the hearing notice.

Clerk Mace stated that proper notice was posted.

Joshua Chase stated proper notice was posted.

Commissioners were asked if any of them have a conflict of interest. All commissioners stated that there was no conflict of interest.

Hearing Officer Trent Grant gave hearing instructions, and turned the time over for the administrators report.

Planner II Joshua Chase gave commissioners a Memo from Planning & Building Administrator Jeff Patlovich to the Commissioners as Exhibit #1. Also e-mails from County Attorney Karl Lewies and Jeff Patlovich as Exhibit # 2. He introduced the administrators report. The administrator recommended approval of the subdivision with a score of +3. The Planning and Zoning Board denied the project based on a revised scoring of the LESA evaluation.

Commissioner Romrell asked if the soils assessment failed to meet standards from both the board and the Planning Commission.

Joshua Chase stated that the soils portion of the LESA received a score of 0.

Commissioner Hurt explained the soil types for the record.

Hearing Officer Trent turned the time to the Developer/Appellant.

Attorney Faren Eddins, 60 East Wallace, Driggs, Idaho representing the Schonberg's. Mr. Eddins submitted a paper copy of a power point presentation as Exhibit #3. He reviewed the scoring by the Planning & Building Administrator and the reassessed scoring of Planning & Zoning Board. He referred to the plat of the proposed subdivision and a picture looking north that does not show trees and covers 80% of the property. Looking south they are looking at a lot of aspen trees and the landscape. There was a picture center of the property looking northwest. He read definition of productive cropland from the Fremont County Development Code. He compared the score of the

administrator and the rescoring of the Planning & Zoning Board. He stated that part of the property was farmed maybe 5 to 10 years ago, but he was not sure. He argued the administrators score was done by a professional and that the Planning & Zoning should not have changed the score. He submitted a copy of the Administrators score on the site assessment. Exhibit #4

Prosecuting Attorney Karl Lewies submitted two GIS Aerial Photos of the area as Exhibit #5.

Commissioner Romrell asked if there are fences around the property and do we know the history of the what the property has been used for.

Mr. Eddins stated that a survey was done and there has been no record or evidence that cattle have ever been there that he is aware of.

Commissioner Hurt asked if the fence to the west had anything to do with the Elk Ranch.

Mr. Eddins was not aware of a fence there and it is not adjacent to the Elk Ranch.

Attorney Sean Moulton, 60 East Wallace, Driggs, Idaho, also representing the Schoenberg's sited two different Supreme Court cases having to do with bias on the improper view of this property by a Planning & Zoning Board member. He recommended that the Board of County Commissioners disregard this information when making their decision.

Hearing Officer Trent Grant reflected that the pictures viewed on the power point were presented as Exhibit #3.

Hearing Officer Trent Grant asked if anyone would like to make public comment. There are none.

Hearing Officer Trent Grant stated that there will not be a rebuttal, because there was nothing to rebut. He then asked Mr. Moulton if he has any closing statements.

Mr. Moulton stated he objects to the e-mails that were made as part of the record as Exhibit #2. He has not had a chance to view these. He stated that he did not receive the attachment referred to in one of the emails and therefore objects to the e-mail as an Exhibit.

Commissioner Romrell closed the Public Hearing.

Paul Romrell, Chairman
Fremont County Commission

Attest: _____
Abbie Mace, Clerk

Exhibit List for Schoenberg Subdivision Appeal Hearing:

1. Memo from Planning & Building Administrator Jeff Patlovich
2. Emails between Planning & Building Administrator Jeff Patlovich and Prosecuting Attorney Karl Lewies
3. Power Point of pictures of property
4. Site Assessment core by the Planning & Building Administrator
5. Two GIS Aerial photos of the area submitted by the Prosecuting Attorney

Commissioners Special Work Meeting
August 22, 2007

Present for the hearing were Commissioners Paul Romrell, Commissioner Skip Hurt, Commissioner Donald Trupp, Attorney Karl Lewies, Clerk Abbie Mace, Planner II Joshua Chase, and Deputy Clerk Suzanne L. Bagley to take minutes.

Commissioner Romrell opened the special work meeting to review the information from the Public Hearing for the Schoenberg Subdivision Appeal.

Commissioner Romrell questioned Attorney Lewies on the scoring of the soil site assessment.

Attorney Karl Lewies stated that it is clear that it is not productive cropland site.

Commissioners discussed the LESA scoring.

Commissioner Romrell stated that it property is only fenced on two sides and if there had been cattle on it in the past; they would have had better fencing.

Commissioners reviewed the scoring checklist for the project; on VII.Q. Protecting agriculture lands is the place the Planning & Zoning Board changed the score of the administrator. All the commissioners agree with the administrators score on this project. This would give the project a +3 score the same as the administrator.

Attorney Lewies reviewed the definition of VII.Q. Protecting Agriculture Lands in the development code.

The board stated it is irrelevant to the project because it did not score as productive cropland on the LESA evaluation.

The board directed Attorney Lewies to prepare the Findings of Fact and Conclusion of Law for their review.

There being no further business to come before the board meeting was adjourned.

Paul Romrell, Chairman
Fremont County Commission

Attest: _____
Abbie Mace, Clerk

