

MINUTES
OF
DOUGLAS COUNTY PLANNING COMMISSION

3015 MENKE CIRCLE
OMAHA, NE 68134

March 9, 2005
6:00 p.m.

The meeting was called to order by Chairperson Hayes with roll call vote.

Members Present: Bob Bruhn, Ron Bucher, Michael Gerdes, Barbara Hayes, Luke Janke, Dave Lanoha, Joe Roberts and Milo Vacanti.

Members Absent: Bob Boozer

Other County Officials and Staff Present: Barb Frohlich and Kent Holm (Douglas County Environmental Services), Bernie Monbouquette (County Attorney's Office), Don Nielsen (Douglas County Engineer's Office), and Tom Breitreutz (Douglas County Health Department).

Commissioner Roberts noted the minutes contained an error on page 12 where it showed that a motion to deny was made by Commissioner Roberts and seconded by Commissioner Roberts. Barb Frohlich stated she would change the minutes.

Motion by Commissioner Roberts, seconded by Commissioner Lanoha to approve minutes of the February 9th, 2005 meeting with the noted corrections made.

Voting Yes: Bruhn, Gerdes, Hayes, Lanoha, Roberts and Vacanti.
Voting No: None
Abstain: Bucher and Janke

APPLICATION C-3-05

REQUEST: Conditional Use Permit, Other uses that are consistent with the character of Agricultural Farming-1, Venice View Acres, Lot 1-1.86 acres.

LEGAL: Part of SE ¼ SW ¼ of Section 30, Township 15 N, Range 10 E of the 6th P.M.

LOCATION: West of 264th Street on West Center Road, north side.

APPLICANT: Gary Backman, 431 County Road M, Yutan, NE 68073

Mr. Backman or a representative for him was not present. Ms. Frohlich stated that Mr. Backman had not notified her he was not planning to attend the meeting. Commission Bucher suggested waiting until the end of the meeting to allow Mr. Backman an opportunity to present his application and the Planning Commission concurred.

APPLICATION P-4-05

REQUEST: Approval of revised preliminary plat, Gardiner Acres, 33.95 acres, 5 lots approximately 6.0 to 6.5 acres in size, zoning to remain AF-1

LEGAL: Part of NE ¼ of NW ¼ of Section 13, Township 16 N, Range 10 E.

LOCATION: 211th and Bennington Road

APPLICANT: MRP, Inc. (c/o Lil Smith), 414 North Molley, Bennington, NE 68007 (Donald Gardiner, representative)

Mark Westergard, E&A Consulting Group, 12001 "Q" St., Omaha, NE made the following comments as the applicant's representative:

1. The Planning Commission considered the application on February 9, 2005 and recommended denial because of concerns regarding the length of the cul-de-sac, access to surrounding property and water supply.
2. Those items have been addressed.
3. The applicant debated about whether it might be better to revise the plat and go to the County Board or come back to the Planning Commission for approval of the revised plat.
4. It was decided to bring the revised plat to the Planning Commission and request a recommendation for approval before going to the County Board.
5. Appreciate being able to be on tonight's agenda rather than wait another month.
6. The cul-de-sac has been shortened to comply with the maximum length of 600 feet.
7. To address access to surrounding properties, a 33 feet right of way has been dedicated along the eastern property line to provide one half of the right-of-way for future street extension.
8. Easements have also been proved along the street right-of-way to accommodate grading for the road ditches and utilities that may not be able to be accommodated within the sixty six feet of dedicated right-of-way.
9. Easements have also been added along the interior lot lines should MUD water or public sanitary sewer be available to this site.
10. The applicant contacted the State of Nebraska regarding the requirement for a community well. The State would not require a community well for this project.
11. It is understood that the County can have more stringent requirements than the State and the applicant is prepared to install a community well or individual wells as directed by the Planning Commission.

12. Henry Well Company did drilling last week and hit a 70 foot wide, approximately 300 feet deep water supply that would meet the requirements for a community well.

No one from the public spoke for or against the application.

Questions, Comments, and Discussion among Commissioners:

1. Commissioner Vacanti asked who owned the lot located to the west of the proposed subdivision? Mr. Westergard stated it is an existing residence that has access to Bennington Road but could have access to 211th Circle.
2. Commissioner Lanoha asked if the applicant could comply with installing individual wells? Mr. Westergard stated they could comply with individual wells and believed the drawdown would be less than for a normal irrigation well.
3. Chair Hayes clarified that the letter from the State doesn't say they can't have a community well, it says one is not required and if a community well is installed, it would not meet the definition for a community well.
4. Chair Hayes also stated that the Planning Commission could allow individual wells on each lot or require a community well.
5. Commissioner Bucher stated he would like to see some drawdown information about what impact a community well would have on adjacent wells before the final plat is approved. Mr. Westergard stated that information could be provided with the final plat application.
6. Commissioner Bucher asked if the sewer easements refer to easements for the interceptor sewer line. Mr. Westergard stated the interceptor sewer lines are located along creeks or along draws and this property is on top of a hill so would not be part of the interceptor sewer but that easements are in place should public sewer become available.
7. Commissioner Bucher commented that he has some trouble with developments like this because he believes it will be difficult for the City to absorb them in the future

Mr. Holm commented that one of the concerns expressed during discussion on Karrington Lane (adjacent to this proposed subdivision) was fire protection and the availability of water. Also stated that it is desirable to have a community well so the existing infrastructure is in place for eventual hookup to MUD or another public water supply.

Commissioner Roberts asked if fire hydrants could be a recommendation. Mr. Westergard responded that insurance standards for houses that are greater than 100 feet apart is 500 gallons per minute. A community well or individual wells could not meet that requirement.

Chair Hayes asked if Chief Morrissey from Elkhorn Fire Department had submitted comments. Ms. Frohlich stated the proposed subdivision was not located in Elkhorn's area.

Motion by Commissioner Vacanti to recommend approval of the proposed subdivision with well drawdown study to be included with the final plat application.

Commissioner Gerdes asked about the location of the community well. Mr. Gardiner stated the test well was between lot 1 and lot 2. Commissioner Gerdes also asked about easement access to the well site. Mr. Westergard stated they would probably widen the easement to allow for vehicular access to the well head.

Commissioner Gerdes seconded the motion made by Commissioner Vacanti.

Voting Yes: Bruhn, Gerdes, Hayes, Janke, Roberts, and Vacanti

Voting No: Bucher

Abstain: Lanoha

At 6:30 p.m., Mr. Backman or a representative for him still was not present. Chair Hayes opened the public hearing.

APPLICATION

C-3-05

REQUEST: Conditional Use Permit, Other uses that are consistent with the character of Agricultural Farming-1, Venice View Acres, Lot 1-1.86 acres.

LEGAL: Part of SE ¼ SW ¼ of Section 30, Township 15 N, Range 10 E of the 6th P.M.

LOCATION: West of 264th Street on West Center Road, north side.

APPLICANT: Gary Backman, 431 County Road M, Yutan, NE 68073

Jeff Sharp, 27110 West Center Road, made the following comments regarding the application:

1. He lives to the east of Mr. Backman's property and his house sits way back from the road.
2. Pointed out that the state will be widening the highway along that area.
3. He moved to western Douglas County so I wouldn't be next to a residential business.
4. Doesn't want to see Mr. Backman starve but expressed concern about the business turning out to be a used car lot or a rebuild shop with parts stored outside.

Chair Hayes explained this is the subdivision application that requested re-zoning to commercial and several Planning Commissioners voted against because of concern regarding the zoning change. Chair Hayes attended the County Board hearing and explained that a conditional use amendment had been recommended for approval that would apply to this application. The County Board felt that since there would be a conditional use permit in place that we should re-consider the application as a conditional

use permit where we could put restrictions on it. That is why the application is back before us but apparently the applicant has chosen not to pursue the application for whatever reason.

Commissioner Lanoha asked if Mr. Backman was buying the property and trying to re-zone it? Ms. Frohlich stated that Mr. Backman is being relocated because of the highway expansion in Saunders County.

Commissioner Lanoha commented that a conditional use permit was approved for the gravel pit on West Center Road and it is a mess. The guy has great intentions and seems like a nice guy but it is still a mess. There should not be commercial development in that area.

Motion by Commissioner Lanoha to recommend denial of the application because the applicant was not present, seconded by Commissioner Bucher.

Voting Yes. Bruhn, Bucher, Gerdes, Hayes, Janke, Lanoha, Roberts and Vacanti.

Voting No. None

Abstain. None

APPLICATION

G-5-05

REQUEST: Amendments to Douglas County Zoning Regulations (Specific proposed amendment language is available at 3015 Menke Circle.)

- ◆ Addition of Building Coverage language for the following sections: Section 7, Agricultural Farming – 1 (AF-1), Section 8, Agricultural Farming – 2 (AF-2), Section 9, Single Family – 1 (SF-1), Section 10, Single Family – 2 (SF-2), Section 11, Single Family - 3 (SF-3), Section 12, Single Family - 4 (SF-4), Section 13, Multiple Family (MF), Section 14, General Commercial (GC), Section 15, Highway Commercial (HC), Section 16, Industrial (M1), Section 17, Industrial M2)
- ◆ Language changing requirements for building permits for accessory buildings and deleting size requirements: Section 24. Administration and Enforcement, B. Building Permit Required, E. Accessory Buildings

APPLICANT: Douglas County Environmental Services

Ms. Frohlich made the following comments regarding this application:

1. These amendment changes are proposed as the result of variance applications before the Board of Adjustment regarding the sizes of accessory buildings and subsequent discussion by the Planning Commission subcommittee and Planning Commission.
2. The issue was also discussed at the November , 2004 Planning Commission meeting. As a result of the discussion, it decided the regulations should be changed to require

building permits for all buildings because building permits are not currently required for farm buildings.

3. The November, 2004 discussion by the Planning Commission also resulted in a recommendation that percentage of lot coverage be used as criteria for building coverage instead of the current defined square foot limits.
4. Regulations utilized by Lancaster County and ordinances utilized by the City of Lincoln and City of Omaha were reviewed and the amendments proposed. There is a comparison sheet showing the percentages used by other jurisdictions.
5. Since the percentages do not work, adjustments will have to be made.
6. Definitely need to require building permits for all accessory buildings.

Commissioner Gerdes commented that he did some calculations on the proposed numbers and found that in the SF-2 the square footage for a house would be 1,500. In the SF-3 and SF-4 categories there wouldn't be any room left for a house. He also pointed out that setback requirements also take precedence.

The following aspects of the proposal were discussed:

1. Height of buildings.
2. Rear yard setbacks.
3. Total building coverage as percentages for parcels.
4. Percentage of rear yards that could be used for accessory buildings in residential zoning.
5. Building coverage for General Commercial, Highway Commercial and Industrial zoning categories.
6. The setback requirements will not change.
7. Board of Adjustment applications for increased sizes of accessory buildings.
8. The current regulations for sizes of accessory buildings.

It was decided to allow 20% building coverage of a rear yard in residential zoning for accessory buildings and to allow 5% building coverage on agricultural zoned property for accessory buildings.

Commissioner Bucher made the motion, seconded by Commissioner Bruhn.

Voting Yes: Bruhn, Bucher, Gerdes, Hayes, Janke, Lanoha, Roberts and Vacanti.

Voting No: None

Abstain: None

4. Discussion

Comprehensive Plan Committee

Subdivision Regulations

Cell tower regulations-draft

Check list for pre-application meetings

Check list for pre-application meetings

Chair Hayes stated that she had asked Ms. Frohlich to develop a check list to be used for pre-application meetings that will provide a paper trail for staff and for applicants. She is concerned that after a pre-application meeting, applicants will leave and won't remember everything or something will be misinterpreted.

Ms. Frohlich stated that she had discussed the check list with Bob Ellis and he suggested the presence of noxious weeds on property be another issue discussed at the pre-application meeting because there are regulations that prevent dirt being removed from property if certain weeds are growing on the property. He provided a check list to be used for discussion. Commissioner Gerdes also suggested adding an erosion control plan if ground disturbed is greater than one acre and also assign someone to do week or random erosion control inspections. Ms. Frohlich stated erosion control inspections will be incorporated into our permit and inspection program. The checklist could be submitted as part of the application. Sometimes an applicant does not meet with the County Engineer or Health Department. The check list solves that problem by requiring a signature from those departments

1. Commissioner Vacanti asked about the applicant providing information on financing improvements? Ms. Frohlich stated that is part of the application for a subdivision.
2. Commissioner Roberts suggested that OPPD and Aquila be included in the discussion about utilities.
3. Commissioner Lanoha asked what Mr. Ellis wanted a developer or landowner to do about this weed issue? Ms. Frohlich stated that if Leafy Spurge or Canada Thistle are present on the property, all dirt and soil is contaminated and must stay on the property. He is also is concerned about the land being left unmanaged without a cover crop.
4. Commissioner Lanoha asked if our office would be responsible for enforcement? Ms. Frohlich stated Mr. Ellis is responsible for all enforcement, this would just be part of the discussion checklist.

Ms. Frohlich stated the check list would be modified and used for pre-application meetings and become part of the application.

Comprehensive Plan Committee

1. Mr. Holm stated that 24 different firms had requested a copy of the RFP. The proposals are due on Tuesday, March 15, 2005 to Douglas County Purchasing.
2. The Architects and Engineer Review Committee will review the RFP's and choose three firms to interview.
3. Several out of state firms, including ones from New York, Kansas City, and Philadelphia have expressed interest.
4. Interviews will be scheduled and the firms ranked for consideration at the April Planning Commission meeting.
5. Commissioner Bucher asked about the annexation issue and how the land that might not be in the County's jurisdiction would be handled. Mr. Holm stated that issue will

- need to be dealt with depending on what happens in the next few weeks. Otherwise, the comprehensive plan update will be based on the County's existing jurisdiction.
6. Commissioner Roberts asked what the timetable was for the update? Mr. Holm stated he would like to have it completed by the end of the year.
 7. Commissioner Bucher stated he was concerned that if the 10 square miles were excluded, that decision may later be regretted but if it is included, then the plan will be outdated. Mr. Holm stated that unless there is a legal decision that clarifies the annexation issues within the next few weeks, the update will include all the existing territory. Chair Hayes concurred.
 8. Commissioner Bucher stated there might be a lot of work done that could be wasted.
 9. Chair Hayes stated she didn't believe it would be wasted.
 10. Mr. Holm stated he believed it is particularly important to look at the density and infrastructure issues on the east side of the Elkhorn River.
 11. Ms. Frohlich asked about the members of the committee? Mr. Holm stated the committee that would work with the consultant could contain up to four Planning Commission members and three County Board members. Mr. Holm stated he would need to know at the April meeting who the planning commission members would be.
 12. Commissioner Lanoha asked for an idea of the time required to be on the committee. Mr. Holm said he would review his records from the last update.

Subdivision Regulations

1. Mr. Holm stated discussion at a subcommittee meeting focused on whether the regulation changes made last year are doing the things they need to.
2. He used the example on tonight's agenda of the five lot requirement for a community well and the 20 lot requirement for sewer treatment as changes that were made.
3. Discussion is to look at other things that might need to be changed.
4. Chair Hayes stated when regulations are changed it is important to later do an evaluation to determine if there are problems and if additional changes are needed. Wants planning commissioners to think about what we changed, is it working and if not, how could we make it better.
5. Mr. Holm stated the other major regulation issue to be addressed later this year deals with the stormwater regulations. The template for the regulation is being developed by the Papio partnership and will be available for the governing bodies to review.

Cell Tower Regulations

1. Ms. Frohlich stated that applications for cell towers will probably be submitted in the next few months.
2. The draft is based on guidelines from the City of Omaha and regulations of Lancaster County.
3. Commissioner Vacanti commented you need to be watchful when dealing with cell towers.
4. Commissioner Lanoha stated he has a tower on some of his property and the draft looks like it covers quite a bit of the concerns.

5. Commissioner Roberts expressed concern that regulations would be useful. Several communities have been sued because they denied permits and they have lost in court. The cell tower companies have more power than they really should have because of new laws and concerns about terrorism.
 6. Mr. Monbouquette asked if specific regulations such as our draft were adopted in those communities.
 7. Commissioner Roberts stated he believed regulations were in place.
 8. Mr. Monbouquette stated dimensions could be controlled as conditions of the Conditional Use Permit.
 9. Commissioner Bucher asked if our regulation could require that other users be allowed to use a tower for fair and reasonable rent for co-location rather than have several towers in the same area.
 10. Chair Hayes stated the City of Omaha has that language.
 11. Ms. Frohlich stated she would refine the draft and have it on the April agenda as a public hearing.
5. Announcements – None.

Meeting adjourned at 7:25 p.m.

Minutes approved at the April 13, 2005 meeting.