

DOUGLAS COUNTY PLANNING COMMISSION
3015 MENKE CIRCLE
OMAHA, NE 68134

February 8, 2006
6:00 p.m.

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

Members Present: Bob Boozer, Bob Bruhn, Michael Gerdes, Barbara Hayes, Dave Lanoha, Joe Roberts, and Milo Vacanti.

Other County Officials and Staff Present: Barb Frohlich and Kent Holm (Douglas County Environmental Services), Tom Baker (Douglas County Health Department), and Bernie Monbouquette (County Attorney Office).

Chair Hayes asked for a motion to approve the January 11, 2006 minutes.

Motion by Commissioner Boozer, seconded by Commissioner Bruhn to approve minutes of the January 11, 2006 meeting

Voting Yes: Boozer, Bruhn, Gerdes, Hayes, Roberts, and Vacanti.

Voting No: None

Abstain: None

APPLICATION **PZ-4-05 (laid over from September 14, 2005)**
TO BE LAID OVER TO MARCH 8, 2006 MEETING

REQUEST: Preliminary Plat, Southhampton Subdivision, 93.7 acre parcel, 110 single family lots (0.4 acres to 1 acre in size) with community water and sewer, rezoning from Agricultural Farming-1 (AF-1) to Single Family-1 (SF-1).

LEGAL: Part of S ½ of NW ¼ and part of the N1/2 of NW ¼ of Section 10, Township 14, Range 10 E. of the 6th P.M

LOCATION: Between 234th and 240th south of West Q Road

APPLICANT: Boyer-Young Development Co., 9805 Giles Road, LaVista, NE 68128

Mark Westergard, E&A Consulting Group, requested the layover in light of the Comprehensive Plan action.

Motion by Commission Lanoha to lay over the application, seconded by Commissioner Roberts.

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

Voting No: None

Abstain: None

APPLICATION

Z-1-06

REQUEST: Re-zone parcel 1 – 10.144 acres, parcel 2 – 10.013 acres, parcel 3 – 16.615 acres, parcel 4 – 10.121 acres, parcel 5 – 10.125 acres, parcel 6 – 10.463 acres, and parcel 7 – 10.020 acres from Agricultural Farming – 1 to Single Family -1.

LEGAL: SW ¼ of Section 12, Township 16 N, Range 10 E. of the 6th P.M.

LOCATION: Approx. 211th and Bennington Road

APPLICANT: Scott Bruhn, P.O. Box 650, Elkhorn, NE 68022

NOTE: The ownership of this property to be verified prior to meeting.

Commissioner Bruhn recused himself from the Planning Commission for this application because Scott Bruhn is his cousin.

Mike Mellon, Pacific Realty, presented the application on behalf of the applicant, Scott Bruhn, with the following comments:

1. The property was originally a 77.5 acre parcel located at the northwest corner of 216th Street and Bennington Road.
2. The parcels were divided and recorded on April 6, 2004. The parcels are 10 acres in size except for parcel 3 which is 16 acres.
3. We are requesting re-zoning of the property so the prospective developer will be able to obtain building permits.

Ms. Frohlich clarified that the property has not been subdivided; the land has been divided into parcels.

4. The prospective developer is Don Gardiner.
5. Showed a plan with two access points off of Bennington Road with the building sites clustered in the corners of the lots to allow for higher density development in the future when public water and sewer is available.
6. The prospective developer, Don Gardiner, subdivided a 37 acre site with five lots across the street from this property. Two houses are now being built in that subdivision.
7. This property is outside the one half mile buffer around the landfill as proposed in the draft comprehensive plan. Pointed out the location of the property in relation landfill.

Mr. Holm commented that staff is concerned that the property has not gone through the subdivision process so the developer is not subject to any of the County's subdivision regulations where utility easements, etc. are dealt with. He added that Gardiner Acres went through the subdivision process and remains zoned Agricultural Farming – 1.

Ms. Frohlich clarified that the reference to the draft comprehensive plan buffer around the landfill in the staff report was an incorrect and that the proposed buffer would not include the property in this application.

Chair Hayes opened the public hearing.

Scott Bruhn, , P.O. Box 650, Elkhorn, NE 68022, made the following comments:

1. He is the owner of the property.
2. His father purchased 850 acres in this area back in 1960 and his family has been paying taxes on it for 40 years.
3. He divided this property into 10 acre parcels before minimum lot size requirements were changed.
4. Mr. Gardiner's proposed project would beautify the area as shown by the development he has done across the street from this property.
5. My sister owned 150 acres of property in this area and she was forced to sell it because of a hardship. Because of the location near the landfill, the property sold for 25% of what it was really worth.
6. All property owners in this area have been impacted by the landfill with its impact on land values.
7. We are attempting to comply with the draft comprehensive plan and have a professional development.

Iris Moore, 9036 Harney, made the following comments:

1. She owns land to the north of this property.
2. Asked for clarification about the buffer around the landfill.

Ms. Frohlich explained that currently it is one mile but is proposed to be one half mile in the draft comprehensive plan. Chair Hayes also explained that the County Board has directed the Planning Commission to review applications based on the draft comprehensive plan. Mr. Holm read the language from the resolution:

“Resolved that it is the intent of Douglas County to move as expeditiously as possible , first, to adopt the updated Comprehensive Plan and second, to revise and adopt regulations that conform to that plan. Subsequent to the approval of the updated Comprehensive Plan but prior to the adoption of regulations to conform to that plan, staff will work with applicants to help them comply with the requirements of the proposed plan.”

Ms. Moore continued her comments:

3. She purchased the property with the idea that there would not be multiple houses surrounding it.
4. Concerned about 7 houses with individual septic systems and well because her property is on the downside of the property.
5. Is opposed to having the property re-zoned to single family, wants it to remain agricultural so there are not multiple septic tanks in their watershed.

Chair Hayes clarified that Gardiner Acres did not re-zone that property and is using individual septic systems.

6. Asked why this property needs to be re-zoned.

Ms. Frohlich explained that the regulations have changed so that 20 acres is needed in AF-1 and AF-2 zoning districts in order to obtain a building permit for a residence. When Gardiner Acres was approved, the requirement was two acres.

Brad Baudino, 21260 Bennington Road, made the following comments:

1. He lives on the property.
2. Asked if more than one residence could be built on the 10 acre parcels.

Ms. Frohlich stated that only one residence would be allowed.

3. Asked how small the parcels could be in Agricultural Farming -1 zoning.

Ms. Frohlich stated with an individual well and septic system, the parcel could be as small as three acres according to the current regulations. Mr. Holm added that the minimum lot size in Single Family – zoning is 20,000 sq. ft.

4. Asked if that meant there could eventually be 25 to 27 homes on the 77 acres.

Mr. Holm responded that potentially there could be more homes but they would have to have municipal water and sewer.

4. Stated that he didn't believe 24 homes is in keeping with the area.
5. Expressed concern about runoff because their property is located on the downhill side.

Judy Leibrock, 9946 Devonshire Drive, a co-owner of the property with Ms. Moore also stated her opposition to the re-zoning application.

Chair Hayes closed the public hearing.

Questions, Comments, and Discussion among Commissioners:

1. Chair Hayes commented that Don Gardiner knows the subdivision process and what is required as far as infrastructure and believes all of the requirements are doable but not as presented.
2. Commissioner Lanoha stated he would like the Health Department's opinion regarding the septic system issue.

Tom Baker, Douglas County Health Department, stated that there was concern about the proximity to the landfill but that has been answered in that it is outside the half mile buffer. He further stated that he wasn't real concerned about the septic systems because there is not a lot of water to be contaminated in the area and the Health Department has not had complaints about water contamination in the area. only issue

Motion by Commissioner Vacanti to lay over the application until March 8, 2006, seconded by Commissioner Boozer.

Chair Hayes requested that Ms. Frohlich and Mr. Holm assist the applicant with the issues that Mr. Gardiner dealt with.

Voting Yes: Hayes, Lanoha, Roberts, Vacanti, Boozer, and Gerdes..

Voting No: None

Abstain: Bruhn.

APPLICATION

Z-2-06

REQUEST: Re-zone parcel 1443 0008 01, 9.09 acres from Agricultural Farming - 1 to Single Family - 1.

LEGAL: Parcel 1443 0008 01 in N/12 NW ¼ of Section 28, Township 16, Range 10 E of the 6th P.M.

LOCATION: 252nd Street and State Street

APPLICANT: Michael Noyes, 8301 North 250th Court, Valley, NE 68064

Michael Noyes , 8301 North 250th Court, requested re-zoning of his property from Agricultural Farming - 1 to Single Family - 1 in order to build a single family dwelling.

Ms. Frohlich commented that staff recommended approval of the application because the property is adjacent to other single family zoned property.

Chair Hayes opened the public hearing. No one from the public spoke for or against the application.

Chair Hayes closed the public hearing.

Motion to recommend approval by Commissioner Boozer, seconded by Commissioner Vacanti.

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

Voting No: None

Abstain: None

APPLICATION G-2-06

REQUEST: Review and Adoption - Douglas County Comprehensive Plan

APPLICANT: Douglas County Environmental Services

Kent Holm made the following comments regarding the Comprehensive Plan:

1. The Comprehensive Plan Committee met on January 26, 2006 in response to some of the concerns that were aired at the January 11, 2006 meeting.
2. Some changes were recommended at that meeting and posted on the website.
3. Eliminating the minimum lot size to allow a higher concentration of units on a smaller piece of land in Environmental Resource Districts was an issue discussed after the January 26, 2006.
4. A memo was sent to all Planning Commissioners recommending that the minimum lot size be eliminated to allow more dense clustering of allowable units with gross density remaining one unit per two acres.
5. We are requesting recommendation to the County Board for approval.

Chair Hayes made the following comments for clarification:

1. These proposed changes apply only in the Environmental Resource Districts and those are specifically identified in the Comprehensive Plan.
2. Originally the plan identified a gross density for these areas of one unit per five acres with minimum lot size of three acres.
3. The Committee looked at that density issue in January and proposed a gross density of one unit per two acres with a one acre minimum lot size.
4. Now we are proposing the gross density at one unit per two acres with no minimum lot size.

Commissioner Gerdes asked if the Environmental Resource Districts could be identified on the map.

Mr. Holm stated that RDG and Ms. Haase reviewed the areas identified as Environmental Resource Districts located in both the north and the south to make sure they were correctly identified.

Chair Hayes stated that letters were received from Bob Peterson and Bob Doyle requesting a review of the areas identified as Environmental Resource Districts.

Marty Shukert responded with the following comments:

1. The environmental resource areas were looked at again to make sure those areas were delineated in a way that the designation applied only to the most sensitive areas.
2. In the south area, we have now actually removed about 350 acres from that designation after applying a more rigorous standard and looking at the area on a quarter section basis.
3. The area east of the environmental resource area is now about 880 acres.
4. The area that Mr. Peterson represents is now about 80% within the urban development area with only about 20% in an environmentally constrained area.
5. We are more confident with these designations and their defensibility.

Mr. Peterson asked for specific clarification on the map of the changes to the property he represents. Mr. Shukert pointed out the specific areas on the map for Mr. Peterson.

Chair Hayes asked Mr. Shukert about the area south of Q Street. Mr. Shukert pointed out the environmental resource area south of Q Street.

Chair Hayes opened the public hearing.

George Blazek, 8805 Indian Hills Drive, attorney for Mr. Appleby who owns land directly west of the landfill made the following comments:

1. Mr. Appleby is very much opposed to the buffer designation.
2. He was told the reason for the buffer was for traffic to the landfill.
3. He advised me that the landfill is to the east of his property and as the landfill moves further to the east, the truck traffic becomes less and less.
4. Trucks to the landfill now approach from the south and east.

Chair Hayes asked if Mr. Appleby was aware that the restriction is only for residential uses, other uses are possible.

5. Mr. Appleby understands that but does not believe the reason he was given for the buffer, traffic volume, is a valid or legitimate concern when there is not a problem with garbage truck traffic along his property.

Mr. Holm stated that he had requested traffic count from the County Engineer's Department. The average daily traffic on 225th Street in a couple of different places is around 1,400 per day. The average daily traffic on 216th Street, the traffic in and out of the landfill, is 1,586 per day. Those counts were done on July 22, 2005. Mr. Holm provided a copy of the information to Mr. Blazek.

6. Mr. Blazek responded that Mr. Appleby does not deny there is commuter traffic but states that garbage truck traffic is not pertinent to his property. He believes the buffer is

not appropriate to his property and would like that changed so residential development could occur on his property at some point in the future.

Chair Hayes stated the buffer moves as different cells in the landfill are utilized. Ms. Frohlich stated it was her understanding that the buffer was around the land designated in the conditional use permit for the landfill not individual cells.

6. Asked if the buffer applies to the old Douglas County landfill.

Ms. Frohlich stated she believed that a portion of the Douglas County Landfill was not closed. Mr. Holm stated that was correct and that the old landfill is probably going to go into closure status later this year. Chair Hayes asked if the buffer wouldn't move at that time. Mr. Holm stated the buffer is shown on the land use map in the new comprehensive plan. Mr. Shukert pointed out that the buffer was reduced to one half mile in the new comprehensive plan. He also explained that it was his understanding that the buffer was for environmental impact not on traffic.

Mr. Blazek continued his comments:

8. Pointed out that on Mr. Appleby's property, groundwater drains to the west and that groundwater on the landfill property drains to the east.

Gerry Haiar, 7726 North 230th Street, asked why his property which is flat is shown as environmental resource district on the map. Mr. Shukert stated he would look at the maps and comment later in the meeting.

Mark Westergard, E&A consulting group, representing Boyer Young made the following comments regarding the proposed Southamptons project which is in the environmental resource district:

1. Boyer Young is not opposed to the Comprehensive Plan, it is something that everybody appreciates and helps guide development, nor are they opposed to the environmental resource districts.
2. Concerned that the one unit per two acre density requirement with central water and sewer does not provide the revenue stream necessary to do the development under the SID process.
3. Believes this density requirement will make subdivisions unable to provide central water and sewer whether the sewer is pumped back to Omaha or a treatment plant.
4. The costs incurred cannot be supported by that density of development.
5. Presented several scenarios using the Southamptons as an example but believes the same scenarios could be applied to other parcels in environmental resource districts.
 - a. Southamptons is an 80 acre parcel with tree cover on the property. The scenario shows the land divided with one unit per two acres. This would yield 40 lots with the bulk of the tree canopy and ravines protected for the

most part from grading. Lots are generally about an acre in size. Using houses valued at \$500,000 and the allowable debt ratio of 4% under SID process, approximately \$800,000 would be available for general obligation costs. The costs of improvements for a water system, storm culverts, and sewer system would be around \$1,500,000 so there is no way this would work.

- b. Another scenario with a central water system and individual septic systems would be three acre lots. In this layout the streets are almost identical because there is so much tree canopy on this site that you have to get into these open areas regardless. Now there are 26 lots and the control of much of the tree canopy now reverts back to the homeowner and in fact is not protected at all because it is not part of an outlot. With 26 lots, you have about \$520,000 available for general obligation costs with about \$900,000 in actual costs. The three acre lots work with individual wells and septic systems but the whole idea of the Comprehensive Plan is to get away from having wells and septic systems all over the place.
 - c. The third scenario is designed with lots 90 feet wide lots and all the tree canopy areas are preserved. This scenario has 80 lots and 45 acres of open space. You have much better designed lots with higher density and the same amount of disturbance (as in the one unit per two acre scenario) and you are able to control the open spaces because they are not under the control of the individual lot owners. About \$1,600,000 in general obligation debt would be available and about \$1,500,000 would be have to be spent.
6. It is going to be very difficult for anybody to develop in the environmental resource districts under the SID system with the requirement for municipal water and sewage. If that doesn't happen, it seems there will be a proliferation of 10 to 20 acre lots because that is all that will be affordable on these particular pieces of ground.
 7. Also pointed out that if Omaha succeeds in the annexation of Elkhorn, this area becomes within the three mile jurisdiction of Omaha and that consideration should be given to have rules fairly consistent with the City of Omaha. The City of Omaha uses an environmental district overlay.

Chair Hayes and Mr. Shukert commented that it does not work very well.

9. Concluded his comments by saying that if an 80 acre parcel of ground only has ten acres of trees, then the ten acres of trees should be protected but if public sewer and water are available, then the remaining acreage should be developed at regular urban density.

Mr. Shukert responded with the following comments:

1. Regarding Mr. Haiar's comments regarding the area along 230th street, part of the quarter section is environmentally constrained so then all of the quarter section is designated as such on the map. There will be situations where a parcel is

- designated as environmentally constrained but it actually is not and those situations will be handled on a case by case basis and in the regulations.
2. There was a good deal of discussion regarding the Southhamptons area as to the density, whether it should be one unit per acre, one unit per one and a half acres, or one unit per two acres.
 3. The ultimate limiting fact was an issue of traffic more than environmentally sensitive land.
 4. The proposed density was based on the fact that most of the property within that south area will use Q Street at some point or another as it exists today so we looked at densities from the perspective of how much traffic will be generated at those various rates of development.
 5. Looked at how much traffic could be accommodated by a three lane Q Street.
 6. If the area is developed at urban density, a "Q" Street winds up having five lanes, this would significantly affect the nature of the land.
 7. The proposed density is a balance that would maintain something related to rural character as opposed to making the area look like conventional west Omaha.
 8. Mr. Westergard's proposed design for 80 lots on 80 acres with 45 of the acres in common open space is a lovely design.
 9. Maybe consider a standard that requires 50% or more of the land be maintained in common open protected space to obtain a density of one unit per acre. If less than 50% is maintained in common open protected space, the density would be one unit per two acres.
 10. This rewards the developer with smaller lots and is the desirable outcome we would like to see happen.

Greg Prorok, Twin River Vista, made the following comments:

1. Lives in the area near where the Southhamptons is being proposed.
2. Has talked with the developer and they have been very cooperative with information about the project.
3. Is concerned because he lives in a forest that is a remnant of the eastern deciduous forest and has one hundred year old oak trees on his property.
4. This native forest is also on the property where the Southhamptons development is proposed.
5. Is concerned about protection of the forest and associated plants.
6. UNO has 26 acres of property north of him that has native prairie and 55 different species of plants have been identified.
7. A neighbor has also documented 142 species of birds that move through this area.
8. Since moving to the area nine years, he has found that this is a very unique piece of land.
9. Traffic on "Q" Street, sewers, water, and density are all new issues in this area which has been pristine for years.
10. Expressed concern about the waterways and very erodible soil in this area and whether or not water runoff from urban development would be held on the property.

Chair Hayes stated that conservation subdivision design would be mandatory throughout the County.

11. The plan shown for the Southamptons tonight now saves the forest and utilizes the clearings on the ridge tops which is what he has been advocating.
12. Believes there needs to be flexibility and if the reward for maintaining the forest is density, that density will be the incentive to put public water and sewer in the subdivision.

Chair Hayes closed the public hearing.

Discussion among commissioners about our plan.

1. Commissioner Vacanti stated he liked Mr. Shukert's suggestion that would maintain 50% or more of the land in open space.
2. Chair Hayes stated she was also comfortable with that plan.
3. Mr. Holm asked if minimum lot size should be a concern? Mr. Shukert responded that he didn't think so because the gross density and amount of land that has to be maintained as open space will rule.
4. Commissioner Lanoha confirmed that any change made would apply to the entire county. Chair Hayes and Mr. Holm stated the Environmental Resource District would apply to the entire county.
5. Commissioner Lanoha stated that he was concerned about land that should not be developed. Mr. Shukert responded that an 80 acre parcel of land may only have 15 acres that can be developed and the remainder would have to be maintained as open space. The density that the market would bear would determine the clustering on those 15 acres.
6. Commissioner Lanoha also expressed concern about developers that bulldoze everything before submitting a subdivision plan. Mr. Shukert stated that could be addressed in the specific subdivision regulations. He also stated there should be economic disincentive to doing that because things that add value to the property are destroyed. Mr. Holm added that the Phase II storm water regulations will address some of those issues because they are some extremely severe penalties for doing that.
7. Chair Hayes asked if the buffer around the landfill on the west was because of traffic. Mr. Holm stated it was his understanding that the intent of the buffer all the way around the landfill is to minimize any residential versus industrial (landfill) conflicts in use. As an example, the landfill has operating hours from 4:30 a.m. until in the evening. There will be backup alarms and other noise as well as the truck traffic going in and out of the landfill on 216th Street.
8. Commissioner Lanoha commented that the landowner could still make application to change the use of his property.
9. Mr. Holm commented that commercial and industrial uses in the buffer would not necessarily have the conflicts so that is why only residential use was addressed.
10. Mr. Shukert suggested that the Planning Commission do a periodic review of the situation and adjust the buffer accordingly.
11. Commissioner Lanoha requested that Mr. Shukert add that language to the plan.

12. Chair Hayes concurred.
13. Commissioner Roberts stated he would support that additional language and asked if the landfill near Mr. Appleby's property would be closing down in the next year.
14. Mr. Holm stated that Scott O'Neil, Waste Management Site Manager, said they will be looking at closing that particular site. He stated he believed the buffer around the Pheasant Point Landfill would stay the same for 50 to 100 years, the expected life of the landfill. He supported the idea for looking at the buffer around the old landfill site and possibly readjusting that boundary.
15. Mr. Shukert said that clarifying the reason for the buffer helps because if the reason for it is no longer valid, then the buffer should be modified.

Motion by Commissioner Lanoha to recommend approval of the Comprehensive Plan with the following changes:

1. In the Environmental Resource District, gross density to be established as follows:
 - i. If 50% or more of the parcel in the subdivision is maintained in open space, then the gross density will be one unit per acre with no minimum lot size.
 - ii. If less than 50% of the parcel in the subdivision is maintained in open space, then the gross density will be one unit per two acres.
2. Mandatory conservation design to be required throughout the County regardless of the district.
3. Addition of language to clarify the reason for the buffer around the landfill, residential use versus industrial use potential conflicts.
4. Addition of language to allow consideration of an adjustment in the buffer around the landfill over time.

Motion seconded by Commissioner Bruhn.

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

Voting No: None.

Announcement:

1. Papillion Creek Watershed Partnership is holding a public forum on March 2, 2006.
2. There will be discussion items on the March 8, 2006 agenda regarding storm water policies and regulation.

Meeting adjourned at 7:45 p.m.

Minutes approved March 8, 2006.