

DOUGLAS COUNTY PLANNING COMMISSION
3015 MENKE CIRCLE
OMAHA, NE 68134

March 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, Ann Houlihan, 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), Bernie Monbouquette (County Attorney Office), and Don Nielsen (County Engineers Office).

Chair Hayes asked for a motion to approve the February 8th, 2006 minutes.

Motion by Commissioner Boozer, seconded by Commissioner Vacanti to approve minutes of the February 8th, 2006 meeting

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

Voting No: None

Abstain: Houlihan

Chair Hayes stated that she was going to change the agenda and that Application Z-1-06 would be heard first.

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

Commissioner Bruhn recused himself from the Planning Commission at 6:07pm for this application because Scott Bruhn is his cousin.

Scott Bruhn, P.O. Box 650, Elkhorn, NE. requested a layover of this application until the May 10th, 2006 meeting.

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

Motion by Commissioner Gerdes to lay over the application to the May 10th, 2006 meeting, seconded by Commissioner Lanoha.

Voting Yes: Boozer, Gerdes, Hayes, Houlihan, Lanoha, Roberts, and Vacanti.
Voting No: None.
Abstain: None.

Commissioner Bruhn returned to the Planning Commission Board at 6:08p.m.

APPLICATION PZ-1-06

REQUEST: Preliminary Plat, Southamptons Subdivision, 81 acre parcel, 80 single family lots with community water and sewer, rezoning from Agricultural Farming-1 (AF-1) to Environmental Resource District.

LEGAL: Part of S ½ 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

NOTE: This application is a revision of PZ-4-05 originally heard at public hearing on September 14, 2005.

Chair Hayes requested that members of the public wanting to speak on this application pick someone to present their concerns rather than have people repeating the same comments over and over.

Chair Hayes recused herself from the Planning Commission Board at approximately 6:15 p.m. due to a conflict of interest with this application. Vice-Chair Lanoha assumed duties of Chair for this application.

Bob Doyle, attorney, made the following comments as representative for Boyer-Young Development Company.

1. This application has been laid over a number of times in order for the new Comprehensive Plan for Douglas County to be developed and approved. It is scheduled to be heard by the County Board for approval on Tuesday, March 14th, 2006.
2. The plat has been re-designed to comply with the Environmental Resource District in the new Comprehensive Plan. Fifty percent of the ground is preserved as open space which we will call “a natural environmental area.” This natural environmental area is usually maintained in one of the following ways:

- a. It is decided to and owned by the SID but they only have minimal maintenance which includes clearing out any drainage ways and the ground would be open to the public, or
 - b. The area is owned by a Homeowner's Association.
3. The 80 lots are clustered.
4. Mr. Doyle addressed the comments in the staff report:
- a. Request to layover this application until the wastewater issue is resolved.
 - i. Boyer-Young understands that Douglas County prefers that the wastewater goes back to the City of Omaha interceptor system and agrees with that
 - ii. We have met with the City of Omaha and have an agreement in principle that we will be lifting the wastewater up to the City of Omaha using a "regional lift station" that will handle the sewage from an 800 acre sub-basin which we will call the "Q" Street sub-basin, the sub-basin from the Elkhorn River basin.
 - iii. Should the City of Omaha not give approval to hook up to their interceptor system, we have sent plans to the NDEQ for approval, and these should be approved within 3-4 weeks.
 - iv. We prefer that you approve this matter conditioned upon the wastewater treatment problem being solved because we believe that the City of Omaha will approve the agreement.
 - b. Verification that MUD will supply the municipal water.
 - i. The agreements and contracts are being prepared at this time by MUD.
 - c. 234th & 235th Street lining up with each other.
 - i. We wouldn't mind doing that but because of the problem of taking land from an adjacent landowner, it isn't going to happen and is not practical.
 - ii. 234th Street is already platted and the Douglas County Engineer have given us some conditions that have to be met in order to have those two intersections.
 - d. The traffic study on "Q" Street from 204th to the Elkhorn River.
 - i. SID's normally do not do traffic studies.
 - ii. There will be a 3-lane area between the Hamptons and Southamptons as requested by the County Engineer.
 - iii. As new subdivisions develop along "Q" Street it will be their responsibility to put in three lanes as well.
 - iv. Part of the agreement we have with Douglas County and the City of Omaha provides for an ASIP (arterial street improvement program) fee which is similar to what the City of Omaha collects on each building permit. It is put in a separate fund and used for street improvements.

- v. The street improvement to be funded is at the discretion of the City of Omaha. At this time, one project designated is for “Q” Street out to 204th Street.
 - vi. This ASIP (arterial street improvement program) fee would go to Douglas County to fund whatever street improvements Douglas County would designate.
- e. Believes this design complies with the new Comprehensive Plan and that the City of Omaha will agree to connection to the interceptor sewer system.

Questions, Comments, and Discussion among Commissioners:

1. Vice Chair Lanoha asked Mr. Doyle if he felt that there was a good chance for connection to the City of Omaha’s sewer inceptor system because a lot of people in the audience are concerned about sewage being dumped in the Elkhorn River. Mr. Doyle stated the applicant is also concerned about sewage and if the City of Omaha agrees to the interceptor sewer connection, then no sewage will be dumped into the Elkhorn River.
2. Commissioner Gerdes asked Mr. Doyle if the applicant would be in favor of a motion recommending approval of the preliminary plat with the condition that wastewater is pumped to the City of Omaha interceptor sewer system. Mr. Doyle stated the applicant was in favor of the wastewater being pumped to the City of Omaha interceptor sewer but if that fell through, the applicant would get the NDEQ discharge permit for 227 to 230 lots (the Hamptons and Southamptons). NDEQ has requested that the treatment plat be engineered so that additional packages could be added to accommodate the remainder of the sub-basin.

Vice Chair Lanoha opened the public hearing.

Mark Baker, 4130 S. 29th Street, Omaha who owns a cabin on the River made the following comments:

1. Expressed his disagreement with this development if the deal with the City of Omaha falls through because it goes against the County’s Comprehensive Plan.
2. The developer states they want to create an Elkhorn preserve around the river and that if sewer flows into the river, the recreational aspects would be compromised.
3. Nebraska Game & Parks has designated the Elkhorn River as one of the best for canoeing in eastern Nebraska.
4. If this subdivision is annexed by the City of Omaha in the future, he is sure that the treatment plant would be maxed out by that time and the City of Omaha wouldn’t want a treatment plant that is maxed out.
5. Recommends delaying the vote until the developer and the City of Omaha have an agreement in writing.

Kenneth Kendall, 2309 “F” Plaza, who has a cabin at this address had the following comments:

1. During some summers, you can see the sandbars on the river. If there is a treatment plant with sewage dumped into the river and the water level is low, people would be exposed to this sewage.
2. Right now there are houses being built in the Hamptons and it seems that they are putting the cart before the horse or the horse before the cart.
3. They don't have water and sewage and builders have applied for permits and he thinks it should be held over until these permits are official.

Don Nielsen, Douglas County Engineer's Office stated that he is neutral on this application and had the following comments:

1. Mr. Doyle referred to 234th & 235th intersection geometry being offset. One additional sentence indicates that this geometric configuration could work but it would necessitate that there will be no additional street connections located east of 234th for a distance of 1000 feet.
2. Mr. Sudbeck, owner of property east of the Hamptons had indicated he probably could develop based on information from E&A Consulting Group.
3. That is not definite and as far as the south side of “Q” Street, we don't know what impact that would have for future development and the Engineer's Office would be against adding any additional street connections east of 234th within that 1000 distance. That is because the operational left turn, future medians, etc., would have to operate in a safe fashion.
4. Another safety concern regarding “Q” Street is that “Q” Street may be widen to a 3-lane and may occur within the next 1-2 months and construction may occur before the end of summer or beginning of the school year but the Engineer's Office has not seen the plans yet.
5. The final concern is regarding safety on “Q” Street because there is a site distance restriction at 238th Street to the west. We have asked for information from the current engineers regarding the removal of trees on the north side of “Q” Street. This would open up additional site distance but the Engineer's Office hasn't received the information yet.

Robert Trent, 23551 West “Q” Road, made the following comments: Stated his driveway is straight across from the east entrance to the Hamptons and that he hadn't been to any previous meetings and was caught off guard regarding the proposed 235th Street and wanted to know what has been proposed.

Mr. Doyle replied that the County Engineer had asked the developer to consider constructing 235th Street which would require some of Mr. Trent's property.

Mr. Trent confirmed he would not be agreeable to that situation.

Mr. Doyle stated that because the developer assumed that he would not be agreeable, , 234th Street which already exists would be utilized.

Leonard Frecks, 13362 “Q” Street just east of 234th, made the following comments:

1. He stated he had checked his abstract and he pays taxes to the quarter section line which is 234th Street.
2. There is 33 foot on my side and 33 foot on the opposite side and that the 66 feet is not wide enough. He has been waiting for someone to contact him about purchasing land for the right-of-way.
3. He has Australian pine trees that serve as a windbreak for his house and if they take more land for the right-of-way that would go down the middle of his trees. He asked if he would get paid for the land, trees, or get back the money paid for taxes.
4. He acknowledged that he knows he won't get any money back from paying his taxes but he wants someone to contact him so he is aware of what is going on.
5. He also questioned what happens to the cabins on the west side of the river when the water goes over the bridge.

Sandra Kendall, 2309 “F” Plaza, made the following comments:

1. Stated her husband previously spoke but she has questions regarding the roads.
2. The gravel trucks that use “Q” Street go fast and can't stop quickly. She and a group of people did attend the County Board meeting and expressed their concerns regarding the road situation.
3. She asked the Commission to take a count of the number of people attending the meeting that are opposed to the application but would not be able to speak due to the request of the Chair.
4. Most of the people in attendance have the same concern regarding the water issue.
5. Many believe the developer should not be given a “blanket deal” to go ahead.
6. A lot of people in the State of Nebraska want the Elkhorn River to stay clean and be a nice community for boating and that people can use all the time.

Pat Headley, 6442 S. 245th Street, south of “Q” on 245th made the following comments:

1. Asked if the wastewater does not get approved to go back east to Omaha, would the wastewater treatment plant then be big enough to accommodate other subdivisions who want to add onto it.

Mr. Doyle responding that is what the NDEQ is indicating they want designed.

2. Stated that if the City of Omaha does not approve the hookup, then the wastewater that will go into the Elkhorn will be from the Hamptons, Southamptons, and other subdivisions in the 800 acre sub-basin.
3. She agrees that this application shouldn't be approved until approval is given by the City of Omaha for sewer connection. If it doesn't it will be a mess in the river due to the sewage for the people who fish, canoe, swim, and walk in the river. They couldn't do that like they do now.
4. She had looked at the Comprehensive Plan regarding the density that is allowed in areas like the Hamptons where it leaves some green space and is environmentally sensitive. She thought that the maximum density could be 2 acres per house and on 81 acres that would be 40 homes but they could cluster them on one acre

groups if they left 50% of the area open. Asked if that meant that 50% of the 81 acres would be left open.

Mr. Holm explained the provision has a density bonus whereas the developer leaves greater than 50% of the area open. The developer is proposing to leave greater than the 50% open space so their density can essentially double which means they can have 80 units but they have to cluster them along the areas that are not designated as open space.

5. She asked if the lots didn't have to be at least one acre in size.

Mr. Holm responded the overall density is one unit per acre.

6. Stated she was also concerned about future development to the east and asked if municipal water was going to be supplied for these areas.

Mr. Doyle responded that municipal water is planned.

7. Would also like to see this held over is very concerned about the draw on the well water in that area and feels there will be trouble with the wells as well as the Hamptons having trouble with their community well.

8. She understands that the aquifer is not wide open and there are pockets that fill up.

9. She and the neighbors have wonderful water and with 200 homes going in, what will that do to their wells.

10. She also stated that she thought the Comprehensive Plan stated that new subdivisions had to hook up to municipal water and municipal sewer. This meant that the Hamptons residents should have to hookup to hook up and also any future subdivisions as well. There shouldn't be any talk about a sewage treatment plant.

11. Homes may be devalued due to not having viable water.

Barbara Wright, the landowner just north of where the proposed wastewater treatment facility is going to be, made the following comments.

1. She owns 272 acres and believes that quite a few of her acres have been zoned non-developable according to the way the corridors are designated on her land. They are telling me that there are parts of my land that can't be developed at all because they are so fragile.
2. Asked how much Douglas County paid to hire Marty Shukert to make those corridor designations. Commissioner Vacanti stated that Mr. Shukert was hired for the whole county not just the Hamptons subdivision.
3. Stated that Mr. Shukert spent quite a bit of time with the stakeholders hammering out these plans and she wanted everybody at this meeting to know that the plans that went before this Commission on January 11th were vastly different from what is happening tonight concerning these conservation subdivisions.
4. That plan actually said that the Southamptons was supposed to be five acres, one unit per five acres gross density and look where we are at now, one unit per acre. That's a huge difference and you know what that was a result of, if you look at the Planning Commission meeting notes

Mr. Holm asked Vice Chair Lanoha if he could interrupt for a minute and stated that Ms. Wright's comments were not relevant to the application.

5. Asked if this subdivision is going to be served by the proposed wastewater treatment facility on the Elkhorn.

Mr. Doyle responded that is a possibility.

6. Stated the original plan considered on January 11, 2006 provided that a treatment plant would not be allowed unless the subdivision gross density was one unit per acre.
7. An expensive consultant was hired, he met with lots of people in Douglas County and a lot of input went into this plan.
8. Because one attorney from a handful of developers said that it would not be economically feasible to build the wastewater treatment plant unless they could have higher density, the whole plan was changed. It was stated at that meeting that the treatment plan would be for an 800 acre sub-basin.
9. A huge area was changed that was to be one unit per five acres.

Commissioner Roberts stated that Ms. Wright was completely wrong in her comments. A committee met and there was not just one individual's input, other people had input. Several open meetings were held where people had the opportunity to express their concerns. At the last Planning Commission meeting, approval was recommended for the Comprehensive Plan that went to the County Board who laid it over until next week. There is no point in going into discussion about the Comprehensive Plan; it's done as far as we are concerned.

Vice Chair Lanoha stated that Commissioner Roberts was right, there has been a tremendous amount of work from the Comp. Plan committee and certainly no one developer has influenced that committee either way.

Commissioner Roberts suggested that if Ms. Wright had a problem with the Comprehensive Plan, that she discuss it at the County Board meeting.

Mr. Holm made additional comments clarifying the process for the Comprehensive Plan:

1. The compromise, and I will call it a compromise, was reached at the last Planning Commission meeting to allow the density bonus. The current plan does more to protect the environmentally sensitive areas in the bluff area than the lower density plan that was proposed before.
2. That's simply because it will allow the economics of development when we are clustering the houses in this type of configuration like what the Southamptons has done here.
3. It will allow the provision of municipal services there as opposed to the situations where we would have had larger lots and it would not have been economically feasible to do that.
4. We end up having more protected open space where we wouldn't be able to protect all of those areas as well with larger lots.

5. From a planning perspective, this was a good compromise. We have made it possible to raise the density but in a way that respects the environmental conditions out there and we are very pleased with how the Comprehensive Plan reads right now.
6. And I'll second the comment about the tremendous amount of input that was considered for the Comprehensive Plan.
7. Quite frankly, we didn't hear from you until the past week. This process has been going on for more than 6 months so if you had a real concern, I wished you would have addressed them a lot sooner.

Ms Wright continued her comments:

1. Attempted to attend the meeting when the Hamptons was approved but there were so many people she could not get in the room.
2. Has talked to Rick Hoopes at the NDEQ and he relayed to her that the developer wants the treatment plan to serve 800 acres.
3. The permit application with NDEQ is misleading because it says it is for the Hamptons not the Hamptons and Southamptons.
4. The application also says the Southamptons is part of SID 517.

Mr. Doyle confirmed the Southamptons was part of SID 517.

5. Mr. Hoopes says they can't look at an 800 acre sub-basin, they have to look at the number of people that would be served.
6. Asked if the Planning Commission had a draft copy of the HDR water study that Sarpy County did.
7. Paul Woodward from the NRD provided her with a map of the water study and she stated that the NRD wishes the developer would wait until the water study is completed.

Vice Chair Lanoha commented to Ms. Wright that he believed everyone including the developer wants to see the sewage pumped over the ridge to connect with the City of Omaha sewer system. The developer has made a lot of effort and is trying to accommodate by doing that.

Mr. Doyle stated the applicant would accept approval of the Southamptons preliminary plat contingent upon wastewater being connected to the City of Omaha interceptor sewer.

Ms. Wright stated she was concerned about the wastewater for the Hamptons because the NRD was opposed to the treatment plant being applied for. Vice Chair Lanoha stated that the application was not for wastewater.

Ms. Wright stated if Mr. Doyle got to comment on the wastewater situation, she should also be allowed to comment or do you guys want to meet at my house and I'll tell you what the real deal is.

Vice Chair Lanoha responded to Ms. Wright that if approval of the preliminary plat is contingent upon connection to the City of Omaha sewer system, then that issue is off the table. There has been a lot of effort to accommodate our conservation development plan;

a tremendous amount of work has gone into the design. Outside of the road issue that Mr. Nielsen is working with, everything we have asked for has been done. The sewer issue has always been a big issue and the Commission has shared that same thought. If the sewage is pumped over the ridge we are done talking about the river. The developer cannot continue the project without coming back to the Planning Commission and ask to discharge the wastewater to a treatment plant on the Elkhorn River.

Ms Wright asked about other developers discharging wastewater to a treatment plant on the Elkhorn.

Vice Chair Lanoha stated the Planning Commission could not address that and suggested that the meeting should move forward to other issues.

Ms. Wright again expressed concern about a wastewater treatment plant being permitted. Again, Vice Chair Lanoha stated that this is not the issue before the Planning Commission.

Ms. Wright continued her comments regarding concern for wildlife being able to freely range in the Hamptons and if native plantings would be required. Also stated that she had talked to Mr. Shukert about these concerns.

Vice Chair Lanoha responded that there is a tremendous amount of open ground along the river and those corridors are available to wildlife just by nature itself through the ravines and since those ravines can't be developed, he thinks the wildlife is going to adapt.

Ms. Wright asked if the Southamptons was going to have what they call conservation native plantings.

Vice Chair Lanoha responded that conservation development is required and the Planning Commission cannot dictate what plants are used in landscaping.

Ms. Wright stated she thought the items in the Appendix mandated what could be planted.

Vice Chair Lanoha explained that those suggestions. Chair Hayes commented that the stormwater techniques are also recommendations.

Ms. Wright asked when about stormwater plans for the Hamptons management.

Vice Chair Lanoha suggested that Ms. Wright contact E&A for information about the Hamptons because that was not on the agenda for discussion.

Ms. Wright stated she had tried to call Tim Young about six times after he took down trees on her property.

Vice Chair Lanoha closed the public hearing.

Discussion from the Commission

Motion by Commissioner Roberts to recommend approval of the Southamptons preliminary plat on the condition that wastewater connect to the City of Omaha interceptor sewer system and the developer continue to work with the County Engineer to resolve any road issues.

Vice Chair Lanoha asked Mr. Nielsen to comment on the road issues. Mr. Nielsen stated there were some things that needed to be resolved but the County Engineer was not asking for a layover. The County Engineer wanted to make sure the Planning Commission understood the access restriction east of 234th Street, site distance restrictions which relate to removal of some trees and some grading issues.

Motion by Commissioner Roberts to approve the preliminary plat for the Southamptons on the condition that wastewater be connected to the City of Omaha sewer system and that issues with the Douglas County Engineer be resolved.

Vice Chair Lanoha suggested that the motion be amended to include approval of the design by the County Engineer.

Commissioner Roberts concurred and also added MUD water hookup verification.

Motion seconded by Commissioner Vacanti.

Mr. Holm stated he concurred with the conditions but staff would still like a layover because a final agreement has not been reached on the wastewater being connected to the City of Omaha interceptor sewer system.

Commissioner Boozer suggested a substitute motion to lay over the application.

Mr. Monbouquette stated that he believed staff is indicating they would like to have an agreement signed for the sewer connection before the Planning Commission votes on the application.

Motion by Commissioner Boozer to lay over the application until the April , 2006 meeting.

Commissioner Roberts asked if a special meeting could be held if the sewer issue can be resolved in two weeks.

Ms. Frohlich stated there wasn't time for public notice.

Mr. Doyle stated that he preferred Commissioner Robert's motion because it is subject to obtaining written agreement with the City of Omaha and then another public hearing would not have to be conducted.

The motion by Commissioner Boozer to lay over the application to the April, 2006 meeting died for lack of a second.

Motion by Commissioner Robert to recommend approval of the preliminary plat application with the following conditions:

1. The applicant has a sewer agreement in hand from the City of Omaha.
2. Verification for water to be supplied by MUD.
3. Approved by the County Engineer's for the roadways.

The motion was seconded by Commissioner Vacanti.

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

Voting No: None.

Abstain: None.

Commissioner Hayes resumed duties as Chair of the Planning Commissioner Board at 7:09 p.m.

APPLICATION

C-1-06

REQUEST: Conditional Use Permit, operation of landscape business including the storage, development and sales of landscape materials and plantings, zoning AF-1, 24.64 acres.

LEGAL: SE ¼ of SW ¼ of Section 29, Township 15, Range 10 E. of the 6th P.M.

LOCATION: 260th and Highway 92

APPLICANT: Divine Mowing Service, Inc. (Nate Spoon), 7625 County Road 5, Arlington, NE 68002

Jim Lang, 11718 Nicholas Street, presented the application as representative for Nate Spoon, the principal of Divine Mower Services Inc. with the following comments:

1. The application is for approval of a Conditional Use permit for a landscape business to be established in the vicinity of 260th and Highway 92 (West Center Road).
2. The parcel is approximately 25 acres in size and located on the north side of Highway 92.
3. Access will be at an existing access point toward the west end of the property.
4. The applicant proposed to construct a building to be used for the storage and maintenance of landscape equipment but would not be used for sales.
5. The site will also be used for planting trees and storage of trees and bushes.
6. Divine Mowing Services is a landscaping business that goes out to sites to perform their business. It is not a retail business with customers coming to the site.
7. This site is located just to the east side of the area designated on the Comprehensive Plan for mixed use commercial at the 264th and Highway 92 intersection.

8. The proposed activity is very consistent with the surrounding area and the agricultural use that currently exists on the property.

Chair Hayes opened the public hearing. Commissioner Roberts asked for clarification of the location of the property in its proximity to the Venice Inn Antiques.

Nate Spoon, 7225 County Road 5, Arlington, NE stated there is a parcel of land between the two properties.

Ed Eickler, one of the owners of Venice Inn, made the following comments:

1. Stated he had been out of town and was at the meeting to find out about the application.
2. Stated he understood the type of equipment that would be used for this type of business.
3. Also stated he wanted to make sure the use was compatible with the surrounding housing and would be maintained in a neat manner. Suggested that if equipment was to be stored outside that it be in a fenced area.

Chair Hayes pointed out that the property was not being re-zoned

Mr. Monbouquette pointed out the staff recommendations and the findings of fact that need to be made as required by State Statute and included in the minutes.

Chair Hayes closed the public hearing.

Questions, Comments, and Discussion among Commissioners:

1. Chair Hayes asked if the conditional use permit should be for five years. Mr. Lang stated he preferred not to have a time for renewal.

Motion by Commissioner Roberts to recommend approval of the application with the following findings of fact and conditions:

Findings of fact:

- a. Adequate utilities, access roads, drainage and functional supporting facilities are provided.
- b. Adequate improvements are provided for ingress and egress designed to minimize traffic congestion in the public streets.
- c. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the uses already permitted, nor will substantially diminish and impair property values within the area.
- d. The establishment of the conditional use will not impede the normal and orderly development in the surrounding area for uses permitted in the district.
- e. Adequate safeguards are provided to minimize the impact or contain objectionable air, water, and noise characteristics.

Conditions:

1. Property to be kept neat and orderly with equipment under cover if possible.
2. The conditional use permit expires five years from the date of approval.

Motion seconded by Commissioner Boozer.

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

Voting No: None.

Abstain: Lanoha.

APPLICATION

C-2-06

REQUEST: Conditional Use Permit, operation of business to be located in accessory building for vehicle storage and detailing with limited sales.

LEGAL: Lot 1 and Lot 2, Venice View Acres, 6.34 total acres

LOCATION: 27220 West Center Road

APPLICANT: Gary Backman, 27220 West Center Road, Waterloo, NE 68069

Jim Lang, 11718 Nicholas Street, presented the application as representative for Gary Backman:

1. Stated that Linda Backman, the applicant's wife, and Brent Backman, applicant's son were also present to answer questions.
2. The application is for a Conditional Use Permit to operate a business with an accessory building for vehicle storage and detailing and limited sales.
3. The property is located at 27220 West Center Road (Highway 92) just west of the 264th intersection on the north side of the road.
4. The applicant's business is to purchase used automobiles, refurbish them in the building on the site, and then take the automobiles to dealers to sell them.
5. There would be no vehicles outside and no vehicles displayed for sale or sold at the site.
6. A sign required by the State of Nebraska for a dealer's license is the only sign that would be displayed on the outside of the building.
7. There are no plans for exterior lighting except for security purposes.
8. The Backman's home is also located on the property.
9. Access will be the existing access from Highway 92.

Chair Hayes opened the public hearing.

Jeff Sharpe, 27110 West Center Road, made the following comments:

1. Expressed concern about the location of the building as he previously expressed at an earlier meeting.

Chair Hayes clarified that he was referred to the Board of Adjustment meeting on February 15, 2006 where Mr. Backman's application for a variance was not approved.

Chair Hayes closed the public hearing.

General Discussion

1. Mr. Lang stated Mr. Backman would agree to locate the building to the south and west. He showed where Mr. Sharpe's house was located in relation to Mr. Backman's house.
2. Mr. Lang stated it is proposed that the building be located as far south as the setback requirements allow and as far west as possible but Mr. Sharpe is not agreeable with this location.
3. Mr. Lang also pointed out that this is a 6 acre parcel not just a small parcel.
4. Mr. Sharpe also pointed out that the building is 100 feet long and if it is placed east to west, it will block a lot of ground.
5. Commissioner Lanoha asked Mr. Sharpe how long he had lived in that area. Mr. Sharpe responded four years.
6. Commissioner Lanoha stated he had seen the building and is not very attractive and understood Mr. Sharpe's concerns.
7. Commissioner Lanoha asked if the building was going to stay the way it is.
8. Mr. Backman (Brent) stated that they planned to have it look like other businesses in the area and would re-do it once it was permanently located.
9. Commissioner Lanoha asked if there was any way to modify the location of the building to satisfy Mr. Sharpe.
10. Mr. Backman (Brent) stated that originally the location was to the front of the property and they are now moving it in an attempt to accommodate Mr. Sharpe.
11. Commissioner Lanoha stated there have been other problems with Conditional Use Permits on West Center Road and he was concerned about this evolving into a used car lot.
12. Mr. Backman (Brent) stated that his father had operated a business like this for eight years west of the Platte River Bridge. Their location was near a housing development of million dollar homes and there were never any complaints about their business.
13. Commissioner Lanoha asked if there would be outside storage. Mr. Backman (Brent) stated there would be no outside storage.
14. Ms. Frohlich asked if the building was proposed to be placed east/west or north/south because it might be less obstructive if placed north/south. Mr. Lang stated the building would be placed north/south.
15. Mrs. Backman stated that they intended to landscape the area to make it not only presentable but attractive.
16. Mr. Monbouquette reminded Planning Commissioners of the need to make findings of fact and to specifically comment on findings of facts item C and E. The neighbor would be able to question the Conditional Use Permit if those comments are not made.

17. Commissioner Lanoha again stated that he would like to see the location of the building worked out with Mr. Sharpe but also stated that the location must be general not specific. Chair Hayes also commented that the owner of the property has to comply with setback requirements in locating the building and there are no regulations prohibiting the buildings from being in Mr. Sharpe's view.
18. Mr. Sharpe pointed out that the height of the building makes a difference on the location. Ms. Frohlich pointed out that the building will have to meet floodplain elevation requirements.
19. Chair Hayes expressed concern about exterior lighting. Mr. Backman (Brent) stated they could work with low intensity lighting.
20. Commissioner Roberts stated that the term of the conditional use permit should be five years.
21. Ms. Frohlich reminded Commissioners that one of the staff recommendations is that the property be replatted from two lots to one lot.

Motion by Commissioner Vacanti to recommend approval of the application with the following findings of fact and conditions:

Findings of Fact:

- a. Adequate utilities, access roads, drainage and functional supporting facilities are provided.
- b. Adequate improvements are provided for ingress and egress designed to minimize traffic congestion in the public streets.
- c. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the uses already permitted, nor will substantially diminish and impair property values within the area.
- d. The establishment of the conditional use will not impede the normal and orderly development in the surrounding area for uses permitted in the district.
- e. Adequate safeguards are provided to minimize the impact or contain objectionable air, water, and noise characteristics.

Conditions

1. All vehicles must be inside the accessory building.
2. No sales of vehicles on the property.
3. Only permitted sign is the one required by the State of Nebraska for his license.
4. Approval of the conditional use permit is conditional upon lot 1 and lot 2 being replatted into one lot.
5. Only low intensity exterior lighting may be utilized.
6. The conditional use permit expires five years from the date of approval.

Motion seconded by Commissioner Boozer.

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

Voting No: None

Abstain: None

4. Discussion:

- a. Initial discussion on storm water policies proposed by the Papillion Creek Watershed Partnership.

Mr. Holm provided the Commissioners with information on the partnership and the issue will be on the April, 2006 agenda.

- b. Discussion on the proposed storm water regulation, required pursuant to the County's NPDES Phase II Storm water Permit.

Mr. Holm stated this item would also be on the April, 2006 agenda.

- c. Change distance for notification to surrounding landowners regarding public hearings from 300 feet to 1,000 feet.

Richard Mangold, 19747 Bennington Road, stated he wanted to say he is in favor of changing the notification distance from 300 to 1000 feet. I think in a rural area where most areas are split up into 40, 80, 160 acres, 1000 feet that's not even a quarter of a mile. That's not very far in our neck of the woods.

Ms. Frohlich stated that issue would be addressed as the regulations are re-written.

Meeting adjourned at 7:55 p.m. (Commissioner Boozer left the meeting at 7:49p.m.)

Minutes approved at April 12, 2006 meeting.