

Chair Hayes asked for clarification as to whom the Conditional Use Permit was issued to. Staff replied that the applicant was Kenneth Weber and the Epperles.

Chair Hayes stated that she had a problem with U.S. Cellular requesting revocation of the conditional use permit when they are not the landowners and asked Mr. Monbouquette for clarification.

Bernie Monbouquette asked if the reason for the application is the abandonment of the project. Chair Hayes replied that U.S. Cellular would like the Conditional Use Permit revoked.

Bernie Monbouquette replied that in reviewing the wireless communication regulation, the definition of abandonment states, "facilities shall be considered abandoned 90 days after the expiration of a Conditional Use Permit and partially abandoned in the event a portion is no longer used."

Commissioner Houlihan asked Mr. Monbouquette if he had the background information that says U.S. Cellular couldn't construct the tower because the owner damaged the property of U.S. Cellular and because of the problems with them they could never construct the tower. U.S. Cellular wants to abandon the site because they have another location.

Chair Hayes opened the public hearing.

John Fullenkamp, 11440 W. Center Road, Omaha, Nebraska, representing Fred and Janet Epperle made the following comments:

1. The Douglas County Resolution grants the conditional use permit to the property and to the applicant. The applicant, Kenneth Weber, is a broker who goes out and solicits the tower sites for companies. The companies enter into a lease with the landowner but when the permit is granted it is granted to a site so those permits run with the land which means it is on this piece of property.
2. The circumstances here are that part of this tower is built and there is an existing lease. There really isn't a dispute between the owners of the property and U.S. Cellular but there may have been some kind of a dispute between a relative of the owners of the property but that has nothing to do with the action here tonight.
3. If the owners choose not to go forward with their lease or they abandoned it, according to whatever the terms of your regulations are, they still believe that their property right exists. They request that their property rights be respected and the permit not be revoked.

Chair Hayes stated she wants the record to show that the owners of the property are the Epperle's. The applicant for this particular action is U.S. Cellular and U.S. Cellular is not represented here this evening.

No one else from the public spoke for or against the application. The public hearing was closed.

Questions, Comments

1. Chair Hayes stated she is concerned about making a motion to grant this or deny it. She would prefer to lay this over until their legal issue is taken care of so the Board does not become a part of that decision on either side. She would prefer that both the owners and U.S. Cellular not come before this Board until they have resolved that legal issue.
2. Commissioner Houlihan stated she believed it was beyond the Commission's jurisdiction. If the conditional use permit runs with the land then the Commission has no say.
3. Commissioner Lanoha stated that that the Epperle's and U.S. Cellular should negotiate and the permit should run with the land.

Commissioner Vacanti made a motion not to revoke the conditional use permit, seconded by Commissioner Lanoha.

Chair Hayes stated that she was uncomfortable one way or the other until the legal issue is resolved.

Mr. Monbouquette stated that the Commission did not have to take any action. No action would have the same effect as a motion not to revoke the permit.

Commissioner Houlihan asked if the motion was to not revoke the conditional use permit.

Chair Hayes and Mr. Holm clarified that the motion was to let the conditional use permit stand and not revoke it.

Chair Hayes said the Board's motion is to deny U.S. Cellular's request to revoke the conditional use permit but it is confusing as to how the Commission can vote on this if the Epperle's are the owners and they are not asking for revocation of the permit.

Commissioner Vacanti said that the Commission is just clarifying the situation with the motion not to revoke the conditional use permit

Mr. Monbouquette said that the motion should read: "to not revoke the U.S. Cellular permit."

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

Voting No: None.

Abstain: None.

4. Presentation – Draft of Douglas County Zoning Regulations

Chair Hayes explained that this agenda item is for the Planning Commissioners and anyone from the public who wants to get an overview of the draft regulations. A presentation is being made tonight rather than scheduling an open house. The draft regulations are on the web site, (www.dcplanning.org), and the Douglas County Post Gazette had an article about this. Public comments are being accepted for the next two months until the next January meeting and can be made online as well as to the Environmental Services Department. The draft regulations will be on the January, 2007 agenda as the official public hearing. She also requested that Commissioners review the draft and send any comments by e-mail to Mr. Holm and Planning Commissioners.

Mr. Holm presented a draft of the new Douglas County Zoning Regulations by power point (draft attached). Below are some of his comments during the presentation:

Changes from the existing regulations

One of the changes from the existing regulations is the Use matrix which lists the zoning districts on the top and the different uses on the left. The uses are cross referenced and uses are defined as permitted or special use.

Supplemental Regulations

RDG recommended that the supplemental regulations be separate from the zoning regulations. The exception to their recommendation is the inclusion of the landfill regulations Section .08 and the wireless tower regulations in Section 5.09. It is anticipated that the supplemental regulations that have not been recently updated will be reviewed in 2007.

Floodplain Regulations

The floodplain regulations exist in an overlay district in Chapter 8 and those regulations are the same as our current floodplain regulations.

Use Types

Use types are divided into 8 categories and explained in Article 3.

Zoning Districts

In the use matrix there are 12 zone districts, ranging from agricultural to industrial.

Site Development Regulators

Conservation design is the number one driver in these regulations. The implementation of conservation design will at times necessitate the altering of setbacks and other site development regulators.

RR-1 Rural Residential 1

An example is The Southhamptons subdivision.

RR-2 Rural Residential 2

Some development will be allowed with individual sewer and water services but there are some significant restrictions. There is a three acre minimum lot size with no more than 5 lots per subdivision and there is an open space requirement that will vary with lot size depending on the size of the proposed lots.

MU-2 Community Mixed Use

An example was Mr. Denning's project Highway 36 & 275.

Mixed Use

Includes commercial and industrial. There are no pure commercial districts; "commercial" is included within the mixed use districts.

Conservation Design Regulations in Article 7

This is the primary component of the entire zoning regulations.

Overlay Districts (Article 8)

The BTA, Build Through Acreage overlay is an RDG concept and it has been implemented in Lancaster County. It enables property to be developed with limited acreages and individual services initially. Once municipal services reach the area, then it would be further developed at a higher density and have municipal services. Overlay districts fit over the basic zoning district. Hopefully they encourage innovative project design.

Administration & Procedures (Article 13)

Staff procedures are outlined in Article 13. It was suggested that we put a separate section in Article 13 that talks about general notification. That issue has been brought up to the County Board. There is a notification policy in the language but it refers to Amendments to the Zoning Regulations. It is preferred to have a section that is outside that section for general notification.

Subdivision Regulations Change

There are subdivision regulation changes that we will be bringing up at some point. Some changes will be dependent upon how the zoning regulations are approved.

Mr. Holm said that if any of the Planning Commissioners want to attend the NPZA conference seminar coming up in February, the department will pay for that.

Meeting adjourned at 6:45 p.m.

Minutes approved January 10, 2007.