

DOUGLAS COUNTY PLANNING COMMISSION  
3015 MENKE CIRCLE  
OMAHA, NE 68134

January 10, 2007  
6:00 p.m.

The meeting was called to order by Chair Hayes at 6:00 p.m. with roll call vote.

Members Present: Bob Boozer, Michael Gerdes, Barbara Hayes, Ann Houlihan, Dave Lanoha, and Milo Vacanti.

Member Absent: Bob Bruhn and Joe Roberts.

Other County Officials and Staff Present: Barbara Frohlich, Kent Holm, and Val Toombs (Douglas County Environmental Services), Bernie Monbouquette (County Attorney Office).

Before the meeting started, Chair Hayes made the following statement:

“This meeting is conducted in accordance with the Open Meetings Law of the State of Nebraska and the provisions of the law are posted in the back of the room.”

Motion by Commissioner Boozer, seconded by Commissioner Houlihan to approve minutes of the November 8, 2006 meeting.

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

Voting No: None.

Abstain: Janke.

**APPLICATION**

**G-2-07**

REQUEST: Modify Conditional Use Permit approved on July 19, 2005 for Scott E. Bruhn Enterprises and Pheasant Haven, LL.C. to reduce amount of land that applies to the conditional use permit for commercial hunting preserve including operation of a controlled shooting area for shooting upland game, gun dog training and field trials.

PREVIOUS LEGAL: Legal: E ½ of the SE ¼ of Section 22, Township 16 N, Range 10 E of the 6<sup>th</sup> P.M. SW ¼ of Section 23, Township 16 N, Range 10E of the 6<sup>th</sup> P.M. N ½ of NW ¼ of Section 26, Township 16 N Range 10 E of the 6<sup>th</sup> P.M. SW ¼ of NW ¼ of Section 26, Township 16 N, Range 10 E of the 6<sup>th</sup> P.M. less and except Whitetail Ridge. Total acres 339.50.

PROPOSED LEGAL: N ½ of SW ¼ of Section 23, Township 16 N, Range 10 E. of the 6<sup>th</sup> P.M. (parcels 1401 0008 01 and 1401 0006 01 owned by Scott Bruhn Enterprises) and E ½ of SE ¼ of Section 22, Township 16 N, Range 10E. of the 6<sup>th</sup> P.M. (parcel 1384 0008 01 owned by Scott Bruhn Enterprises and parcel 1384 0006 01 owned by Bruhn Packing Co.). Total acres 173.63.

LOCATION: 9191 North 225<sup>th</sup> Street (approximately)

APPLICANT: Douglas County Environmental Services

Ms. Frohlich, Douglas County Environmental Services, presented the application with the following comments:

1. The owner of the property that Scott Bruhn Enterprises, Inc. was leasing as part of the Conditional Use Permit granted to Scott Bruhn Enterprises, Inc. d/b/a Pheasant Haven notified our office that Scott Bruhn Enterprises, Inc. was no longer leasing the property.
2. This application request is to modify the Conditional Use Permit granted to Scott Bruhn Enterprises, Inc. d/b/a Pheasant Haven to reflect the actual acres that are being used for the Conditional Use Permit.

Chair Hayes opened the public hearing.

Sheri Leaders, 22310 Edgewater Road, made the following comments:

1. She stated that some of her property borders some of the property that Pheasant Haven was leasing.
2. The owners of the previously leased property are having hunting clubs use the property for hunting.
3. When Pheasant Haven leased the property, there were barriers 200 yards from the property lines.
4. The 200 yard barriers have been removed.
5. She would like to have the owner of the leased property put the barriers back up to insure that none of her animals or herself when riding in her arena are injured.
6. Pointed out there has not been an incident yet but was concerned that the Planning Commission might not be aware of the situation and wanted to know if there is anything that can be done to get the owners to abide by the 200 yard barrier.
7. She also emphasized that she is not against hunting but wants to make sure that no one is injured.

Chair Hayes asked Mr. Holm if the Environmental Services office knew anything about the situation. Mr. Holm stated our office was not aware of the hunting and asked Ms. Leaders if it is a commercial operation or are they just allowing people to hunt on their land.

8. Ms. Leaders stated that she had heard second hand from other neighbors that there is a hunting club of nine to 10 people. She saw them on Thanksgiving morning right along her fence line. She thinks there are quite a few people that they are allowing to hunt and she doesn't know if there is a formal agreement.

Chair Hayes stated that permits have not been granted for a commercial hunting operation on that property. Mr. Holm stated a conditional use permit would be required if the landowner is charging people to hunt on their property.

9. Ms. Leaders asked if this was something that could be investigated. Chair Hayes asked Mr. Monbouquette to explain how an investigation would work. Mr. Monbouquette replied that inquiries could be made by asking what the use of the property is and if there is hunting going on by people other than the property owner.

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

Discussion, Questions, Comments:

1. Commissioner Vacanti asked what was being modified. Pheasant Haven has a Conditional Use Permit and Mr. Bruhn is no longer leasing the acres originally listed for the Conditional Use Permit.
2. Commissioner Vacanti replied he thought Mr. Bruhn gave up Pheasant Haven
3. Ms. Leader said there is a hunting club now. Chair Hayes clarified that Mr. Bruhn is no longer leasing the property listed in the original Conditional Use Permit and Ms. Leaders is saying that the owner is allowing people to hunt on that previously leased land.

Commissioner Lanoha stated he would like to make a motion to recommend approval provided that the Mr. Bruhn submits their insurance certificate as required for the yearly inspection. The motion was seconded by Commissioner Gerdes.

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

Voting No: None.

APPLICATION

G-1-07

REQUEST: Public hearing on proposed Douglas County Zoning Regulations and Zoning Map. (Action can be taken tonight.)

APPLICANT: Douglas County Environmental Services

Mr. Holm presented the application with the following comments:

1. Stated he would briefly go through the proposed draft regulations, address comments that have been received and address any comments made at tonight's meeting.
2. A power point presentation was made for the proposed draft regulations (copy attached).
3. Copies of comments received from Cathy Hanus, Richard Allen, RDG Planning & Design, and Lyman-Richey; and recommended changes to the draft zoning regulations were distributed to Planning Commissioners.

Chair Hayes asked Mr. Holm if the comments that were received in written form are a part of public record. Mr. Holm replied they are part of the public record and will be forwarded to the County Board.

Chairs Hayes opened the public hearing and asked that anyone who had submitted written comments to not elaborate on the contents since the comments are part of the public record.

Cathy Hanus, 13808 N. 324<sup>th</sup> Street, made the following comments:

1. Stated she has done a lot of research since she got involved with the cell tower issue and believes the Planning Commission needs to seriously consider the comments and possibly rework the regulations some more. Chair Hayes asked if Ms. Hanus was referring to the cell tower regulation.
2. Ms. Hanus replied that she believed wind energy requirements should also be consistent with the cell tower regulations. Mr. Holm stated that wind energy had already been addressed to be consistent with the cell tower regulations. He also noted the potential contract with the Center for Municipal Solutions for review of applications for cell towers would be a supportive service for the Planning Commission and staff. The Center for Municipal Solutions is a company located in New York and part of their service would be to review our cell tower regulation and assist with finalizing it.

Jerry Haiar, 7726 N. 230<sup>th</sup> Street, stated that the camping issue doesn't address the length of stay, parking, showers, if a permit is needed or the number of people. Chair Hayes asked Mr. Holm what section Mr. Haiar was referring to. She further explained that Mr. Haiar's comments refer to the problem encountered the last couple of summers with detassler groups coming in from other states and setting up camp.

Mr. Holm replied that Article 5.05.D addresses campgrounds. It talks about minimum size, setbacks, maintaining water supply, sewage disposal, water and toilet facilities. The use matrix in Article 4 defines the zone districts where a campground is specifically permitted. A special use permit is required for every situation and an applicant would have to come before the Planning Commission and show for example how they were going to handle water and sewer issues so it doesn't create a nuisance.

Mr. Haiar asked if those requirements were in the current regulations. Chair Hayes and Mr. Holm stated that these are all new requirements.

Mr. Haiar asked about the length of stay. Mr. Holm stated that the definition of a campground in Article 3 states, "Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor for no more than 7 consecutive days during any one month period."

Mr. Monbouquette stated that it appears that the definition would affect only non-family members. Certainly members of a family of the owners would be permitted to put up a tent and sleep in the tent. A guest or a visitor would be everybody but a family member so that would cover the detasslers as well as a commercial operation unless all the detasslers were family members. That would be the only way that the detasslers could camp in mass and cause a disturbance that wouldn't be covered by our regulations.

Chair Hayes closed the public hearing.

Discussion among Planning Commissioners:

1. Chair Hayes expressed concern about the cell tower regulations.
2. Mr. Holm recommended that those be on hold and kept within the document. He stated he would like to get the contract from the Center for Municipal Solutions before the County Board on the 23<sup>rd</sup> of January and then if it is approved, have the consultant evaluate the cell tower regulations. He added that cell tower applicants would pay for the consultant's review of applications.
3. Commissioner Gerdes stated that he was looking through Section 9, Landscaping and Screening, and expressed concern about the detail. In one section, the developer should plant a 2" tree in the front of each lot and one tree in the rear. It is also very detailed in another section that outlines the type of trees to be planted. He wanted to know if that is the type of detail that the Planning Commission wants in the regulations and if everyone is comfortable with that section.
4. Commissioner Vacanti asked about the municipal services on less than 20 acres. Mr. Holm replied that municipal services means a water and sewer system that is provided, generally by a municipality.
5. Commissioner Vacanti asked what if a parcel was 19 acres, then what happens. Mr. Holm replied that in some situations there are going to be municipal services on parcels less than 20 acres. All this is trying to do is identify where there are municipal services and how the current zoning districts would transfer over to the new zoning districts, for example RR-1 as opposed to going to RR-2.
6. Commissioner Vacanti asked about 20 acres or greater. Mr. Holm replied that would typically be in the agricultural district (AG).
7. Ms. Frohlich explained the conversion is a way to take the current zoning districts and convert them to the new zoning district terminology; it is not about re-zoning property.
8. Chair Hayes said she understood Commissioner Gerdes' comments about Article 9; it is a little detailed.

9. Commissioner Gerdes stated that was o.k. too since especially on conditional use permits the Board requested some sort of screening and it helps to have that laid out, shows exactly what we can do and then what is there for each person that comes across. He doesn't have any problem with this.
10. Chair Hayes said that the Board could take action on this tonight or we can lay it over for one more month. There were some comments that people felt they didn't have enough time to review it.
11. Ms. Frohlich said that the zoning map needs to be laid over. Chair Hayes stated her preference is that we send it to the County Board as a complete document and therefore lay it over for one month.

Chair Hayes closed the public hearing.

Motion by Commissioner Vacanti to recommend approval of the proposed regulations except for the zoning map. The motion failed for lack of a second.

Motion by Commissioner Gerdes to lay over the regulations for one month until the February 14, 2007 meeting. Commissioner Boozer seconded the motion.

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

Voting No: None

Abstain: None

Chair Hayes addressed the audience and stated she appreciated the comments that were submitted.

#### 4. Discussion – Center for Municipal Solutions.

Mr. Holm stated the proposed agreement with the Center for Municipal Solutions (CMS) had already been mentioned but he wanted to further explain the agreement. The Center for Municipal Solutions is a company located in New York. If the agreement is approved by the County Board, the Center for Municipal Solutions would provide consulting services to review cell tower and similar applications. They would also have a local representative to deal with our particular account. Payment for their services comes from an application fee paid by cell tower applicants. The fee would be put into an escrow account and the Center for Municipal Solutions would be paid from that account. If there are funds remaining after the review process, the funds are refunded to the applicant. If additional funds are needed, the additional funds are requested from the applicant. Different locations, both city and county, around the county that have utilized CMS services were contacted for references. They are pleased with the information and recommendations they have received from CMS. They feel that they saved money, have better regulations and overall received good service. The Center for Municipal Solutions was brought to my attention by several County Board members and he was asked by County Board Chair Hutchings last fall to research this service. The County Board will consider the agreement on January 23, 2007.

Commissioner Houlihan asked if this is a one time thing where they will assist with the regulations or will they be consulted on issues as they arise.

Mr. Holm replied that part of the agreement is to provide, at no cost to the county, initial consulting on the regulation itself to insure the regulation is in place with provisions for the escrow account. Ongoing consultation is also part of the agreement, they may recommend additional changes to the regulations in the future. The majority of their service will be the review of applications with recommendations. Initially, the County will be working with their staff in New York but there will probably be a local representative that will work with our account.

Chair Hayes stated that no action needed for the discussion items. Mr. Holm stated he brought this information to the Planning Commission because this agreement will affect future applications heard before the Planning Commission.

Meeting adjourned at 6:50 p.m.

Minutes approved February 14, 2007.