

SARPY COUNTY
Department of Planning & Building
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January 18, 2006

Sarpy County Board of Commissioners
Sarpy County Courthouse
1210 Golden Gate Drive
Papillion, Nebraska 68046

To The Sarpy County Board of Commissioners:

The Sarpy County Planning Commission held its regular monthly meeting on January 18, 2006 in the County Board Room at the Sarpy County Courthouse, Papillion, Nebraska. Chairman Wear called the meeting to order at 7:01 p.m. with the following members present: Courtney Dunbar, Don Fenster, Scott Irwin, Alan Wear, Tom Wees and Doug Whitfield. Absent were: Mechele Burry, David Fanslau, Wayne Labart and Don Meyer. Brett Charles, Deputy County Attorney, was present. Also present were Rick Houck, Planning & Building Director and Cindy Gilbert, Recording Secretary and were introduced accordingly.

- ▶ *Chairman Wear asked for a motion to approve the agenda as submitted. Wees moved, seconded by Fenster to approve the agenda as submitted. Ballot: Ayes - Dunbar, Fenster, Irwin, Wees, Whitfield and Wear. Nays - none. Abstain - none. Absent - Burry, Fanslau, Labart and Meyer. Motion carried.*

- ▶ *Chairman Wear asked for a motion to approve the minutes of the December 21, 2005 meeting. Dunbar moved, seconded by Irwin to approve the minutes as submitted. Ballot: Ayes - Dunbar, Irwin, Whitfield and Wear. Nays - none. Abstain - Fenster and Wees. Absent - Burry, Fanslau, Labart and Meyer. Motion carried.*

Chairman Wear asked for commissioner reports.

Chairman Wear stated that the election of officers would be delayed until the February meeting as it states in the Planning Commission By-Laws.

There were no other reports.

I. CONSENT AGENDA ITEMS: Note: All consent items are automatically approved when the consent agenda is approved unless removed by a board member. Removed items will be placed under Regular Agenda Items for action by the Planning Commission. None.

Cindy Gilbert read into record the rules of the public hearing.

II. REGULAR AGENDA ITEMS:

- A. Duane Dowd, Michael Huber, Lawrence Dowd, Jeffrey Farnham & Grand Prix, Inc., 220 N. 89th St, Omaha, request approval of a Preliminary Plat for a subdivision to be known as Stonecrest West on the following described property, to wit: Being a platting of part of Tax Lot 3A1, a tax lot located in the NW1/4 of Sec 22, Twp 14N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (SE corner of 168th & Giles Road) **Tabled from last meeting****

Rick Houck noted this application had been held over to re-look at a couple of changes. He also indicated he would like to see sidewalks with the final plat.

Mike Huber, co-owner representing the group, stated this was a 28 acre parcel located in the south east corner of 168th Street and Giles Road. They held this application over so the engineers could realign one of the streets with the subdivision to the west. The sidewalks have been discussed and they agreed to put them in.

****Public Hearing Closed at 7:10 p.m.****

- ▶ *Wees moved, seconded by Whitfield to recommend approval of the Preliminary Plat for a subdivision to be known as Stonecrest West as it meets the comprehensive plan and the zoning regulations. Ballot: Ayes - Dunbar, Fenster, Irwin, Wees, Whitfield and Wear. Nays - none. Abstain - none. Absent - Burry, Fanslau, Labart and Meyer. Motion carried.*

- B. Raymond & Sandra Hunter, Kenneth & Stephanie Tex and Kevin & Lori Rice, 17406 Cornish Road, Springfield, request approval of a Change of Zone from AG to AGR & RE 2 on the following described property, to wit: Being a platting of the E1/2 of the SE1/4 of the SW1/4 and the SW1/4 of the SE1/4 of Sec 4, Twp 12N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (174th & Cornish Road)**

Rick Houck said the applicants have 60 acres located in the Schramm Park area they would like to subdivide into 12 five-acre lots. They will have individual septic and wells. By his calculations, only 3.2% of the acreage is environmentally constrained, therefore allowing a conventional development. He also noted the block length in this subdivision is above the maximum allowed in the zoning ordinances, but feels the block lengths should be longer in acreage settings and would address that in the zoning ordinances that are being re-done. He said that Lots 1 & 5 would not be allowed direct access to Cornish Road as stated by the County Surveyor. The applicants have requested two different zone changes because the lots that abut Cornish Road fall under the requirements for AGR (Agricultural Residential) because of the dedication of Right-Of-Way to the County. Mr. Houck noted he was recommending approval.

Pat Sullivan, Attorney representing the applicants, stated this application had been delayed until the County approved the Comprehensive Development Plan. He noted that a waiver does not have to be granted. By virtue of an approval, you have agreed the block length is acceptable. The plat is similar to the original plat submitted several months ago. The five-acre rule has been complied with before the Right-Of-Way dedication. The present plan controls this plan under a non-constrained conventional development allowing a minimum of five acres per lot. Mr. Sullivan pointed out that the blocks extend the length of the subdivision, which he doesn't feel is necessary. On behalf of his clients, he asked for this application for a change of zone and a preliminary plat be approved.

Rick Houck read the subdivision regulations that pertains to block lengths and said he could probably do without the east/west roads, but does not like individual neighborhoods that don't connect anywhere.

Lynn Moorer, Attorney representing S.A.V.E. (Schramm Association for a Viable Environment), first asked if she would be receiving 15 minutes per agenda item. (15 minutes for the Change of Zone and

another 15 minutes for the Preliminary Plat)

Chairman Wear stated she could have 15 minutes.

Ms. Moorer stated the Comprehensive Development Plan adopted November 22, 2005 by the Sarpy County Board of Commissioners is illegal as it fails to comply with Nebraska State Statute 23-174.06. She went on to say that it does not meet the current comprehensive plan as it calls for that area to be a minimum of twenty acres. She also noted the "Stakeholders Committee" all have a financial interest in the County, and, therefore, was also illegal. She also noted the zoning is not consistent with the comp plan; there needs to be an adequate water supply; western Nebraska has had severe water shortages; and, the contract with HDR pertaining to the water and sewer study should be completed before adopting a comprehensive plan, since the comp plan was done without regard to the study. She stated the Planning Commission would be playing with fire if they continue because they do not have legal effect.

Courtney Dunbar doesn't think the "Stakeholders" is a good example as she stated they were more of a focus group.

Tom Urwin stated an opinion regarding a conflict of interest with one of the applicants.

With that, Chairman Wear advised the public that only comments related to the application would be received.

Jarel Vinduska, Sarpy County resident, said he feels the density is too small for that area and the development should only exist with the availability of water onsite. The applicant has a major drainageway and needs to protect the water runoff.

Sharon Carter Mason stated she grew up on a farm by the Fishery and it is not fair that other people should be able to come in and take their water. She also noted it won't relieve any taxes.

Public Hearing Closed at 8:08 p.m.

Pat Sullivan, in his rebuttal, read the publication notice, and explained there had been many public hearings, attended by many of the people in the audience. He also noted this application does comply with the comprehensive plan and the zoning regulations.

Courtney Dunbar noted that the Planning Commission does not have statutory rights to control water.

- ▶ *Whitfield moved, seconded by Fenster to recommend approval of a Change of Zone from AG to AGR & RE 2 as it meets the comprehensive development plan and the zoning regulations. Ballot: Ayes - Dunbar, Fenster, Irwin, Wees, Whitfield and Wear. Nays - none. Abstain - none. Absent - Burry, Fanslau, Labart and Meyer. Motion carried.*

C. Raymond & Sandra Hunter, Kenneth & Stephanie Tex and Kevin & Lori Rice, 17406 Cornish Road, Springfield, request approval of a Preliminary Plat for a subdivision to be known as Cornish Acres on the following described property, to wit: Being a platting of the E1/2 of the SE1/4 of the SW1/4 and the SW1/4 of the SE1/4 of Sec 4, Twp 12N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (174th & Cornish Road)

- ▶ *Whitfield moved, seconded by Fenster to recommend approval of the Preliminary Plat for a subdivision to be known as Cornish Acres, waiving the maximum block length as stated in the subdivision regulations, as it meets the comp plan and zoning regulations. Ballot: Ayes -*

Dunbar, Fenster, Irwin, Wees, Whitfield and Wear. Nays - none. Abstain - none. Absent - Burry, Fanslau, Labart and Meyer. Motion carried.

- D. Plambeck Family Trust (with Santa Fe Industrial, Inc.), 16255 Woodland Drive, Omaha, request approval of a Change of Zone from AG to IL on the following described property, to wit: Being a platting of Tax Lot 2 in the SW1/4 of Sec 16, Twp 14N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (180th Street and Storage Road)**

A letter received from the engineers for this applicant asked for a waiver regarding the maximum cul-de-sac length because of the physical limitation of the property.

Rick Houck stated this application is for 21 commercial/industrial lots ranging in size from .6 to 13.7 acres. The cul-de-sac on this plat is unique because of the creek and the railroad. He noted the County Surveyor said 180th Street should be extended with hard surface road to the entrance now. Funds should be set aside or be put into an escrow account for future improvements of 180th Street for the entire frontage. He also stated he wants a landscape plan to be submitted, but recommends approval of the zone change and the preliminary plat.

Robert Peterson, representing the applicant, Melvin Sudbeck, stated the landscaping plan will be submitted with the Final Plat.

Public Hearing Closed at 8:24 p.m.

- ▶ *Irwin moved, seconded by Dunbar to recommend approval as it meets the comprehensive plan. Ballot: Ayes - Dunbar, Fenster, Irwin, Wees, Whitfield and Wear. Nays - none. Abstain - none. Absent - Burry, Fanslau, Labart and Meyer. Motion carried.*

- E. Plambeck Family Trust (with Santa Fe Industrial, Inc.), 16255 Woodland Drive, Omaha, request approval of a Preliminary Plat for a subdivision to be known as Santa Fe Industrial Park on the following described property, to wit: Being a platting of Tax Lot 2 in the SW1/4 of Sec 16, Twp 14N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (180th Street and Storage Road)**

- ▶ *Dunbar moved, seconded by Whitfield to recommend approval of the Preliminary Plat for a subdivision to be known as Santa Fe Industrial Park as it meets the comp plan. Ballot: Ayes - Dunbar, Fenster, Irwin, Wees, Whitfield and Wear. Nays - none. Abstain - none. Absent - Burry, Fanslau, Labart and Meyer. Motion carried.*

** A break was taken at 8:26 p.m. and resumed at 8:36 p.m.**

- F. Krajicek, Inc., 19204 S. 204th Street, Gretna, requests approval of a Change of Zone from AG to AGD on the following described property, to wit: Part of the SW1/4 of Sec 6, Twp 12N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (204th & Buffalo Road)**

Rick Houck explained that this subdivision will have individual wells and septic systems. Approximately 2% of the land is tree covered. The total amount of land is 95 acres. The cul-de-sac length exceeds the maximum, which can be waived. He noted his concern with the depth to width ratio being more than what is allowed in the subdivision regulations. The lots are 330' wide and 1300' deep. Mr. Krajicek's original 6

lots are the same way. Mr. Houck stills thinks this should be redesigned. He noted it meets the comp plan and zoning regulations, but does not meet the subdivision regulations pertaining to depth to width ratio.

Rick Houck answered “Yes” when asked if this subdivision could go to five acres.

Joe Krajicek, resident, has lived there for many years and has no problem with water runoff. He stated the people that are interested in the lots have stated they like the more narrow lot for landscaping reasons and being able to keep animals on the rear of the property.

Lynn Moorner, Attorney representing S.A.V.E., stated this application fails to comply with the current comprehensive plan, which calls for a minimum of twenty acres, does not comply with the comprehensive plan approved on November 22, 2005 as it is not legally effective. She reiterated the non-compliance with the comp plan based on the State Statutes and indicated there would be major problems as they cannot move forward on a plan that is not legally justified. She said that now is the time to use caution or prudence as the environmental values can never be restored when the agricultural district is gone.

Kathy Jeffers stated that the subdivisions will increase the amount of pesticides and herbicides into the river.

Jarel Vinduska said the Planning Commission has ignored the storm water regulations that are in the plan. He noted the NRD (Papio-Missouri River Natural Resource District) is working in Washington County on water issues. There should be no increase in storm water runoff. He also noted there is more than nine percent slope on this property.

Connie Anderson opposes the application because the comp plan is not legal. This plat needs common ground. The brome-grass will drive out the native birds.

Theresa Peterson, Douglas County resident, stated she has visited the Schramm Park area for several decades. Her opposition is of legal concerns. She said it seems the law hasn’t been followed. She thinks if the land has constraints, it needs to be reconsidered. She indicated the Schramm Park area is unique and deserves to be treated as such.

Public Hearing Closed at 9:12 p.m.

Joe Krajicek, in his rebuttal, said the property will be seeded down to reduce runoff and it already has two sediment ponds.

Rick Houck said he did look at the slope and it did not cover as much area as the tree cover.

► *Fenster moved, seconded by Whitfield to recommend approval of the Change of Zone from AG to AGD as it meets the comp plan and zoning regulations. Ballot: Ayes - Dunbar, Fenster, Irwin, Wees, Whitfield and Wear. Nays - none. Abstain - none. Absent - Burry, Fanslau, Labart and Meyer. Motion carried.*

G. Krajicek, Inc., 19204 S. 204th Street, Gretna, requests approval of a Preliminary Plat for a subdivision to be known as Krajicek Acres on the following described property, to wit: Part of the SW1/4 of Sec 6, Twp 12N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (204th & Buffalo Road)

► *Fenster moved, seconded by Whitfield to recommend approval of a Preliminary Plat for a subdivision to be known as Krajicek Acres as it meets the comp plan and zoning regulations.*

Ballot: Ayes - Dunbar, Fenster, Irwin, Wees, Whitfield and Wear. Nays - none. Abstain - none. Absent - Burry, Fanslau, Labart and Meyer. Motion carried.

H. John Vandembroucke, Andy Harpenau and Kenneth Harpenau, P. O. Box 124, Gretna, request approval of a Change of Zone from AG to AGR on the following described property, to wit: Part of Tax Lot 1A1A, together with part of vacated Heisner 1st Subdivision, now known as Tax Lot 1A1C, all being located in a part of the NW1/4 of the SE1/4, the SW1/4 of the NE1/4 and the SE1/4 of the NW1/4 of Sec 18, Twp 12N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (196th & W. Highway 31)

Rick Houck stated this application was for 12 acreage lots. He said he calculated 15.1 acres of tree canopy, which is nearly 25% of the land area, not allowing conventional development. As it is platted, it does not meet the current comprehensive plan for conventional development.

John Vandembroucke, applicant, stated there are 62.88 acres on this plat. He indicated he had spoken with Rick about the tree canopy. He contacted the FSA (Farm Service Agency, a division of the USDA) office and they came up with a different coverage at 9.43 acres, which converts to about 15.9% canopy. He noted the new comp plan says this is a five-acre minimum. He feels it fits the criteria. He said this ground offers both open ground and treed ground. He also noted the plat drawings have notations for trees to be removed under Rick Houck's direction. There are currently three 20-acre pieces. Traffic will enter from a paved road. He also noted the NRD said if over one acre is disturbed that a grading permit will be needed. Mr. Vandembroucke said they will comply with the NRD's request.

Rick Houck stated that conservation or cluster development is the only way to comply. Rick also stated he re-figured the tree canopy and came up with 16.6%.

Jarel Vinduska said this does not deserve to be in a five-acre parcel with the combination of all the constraints. This will be too many septic. The water runoff is more on acreages than it is on terraced farm ground.

Rick Houck read the portion of the comp plan that indicated only one constraint at a time was counted.

Lynn Moorer opposed the application on behalf of S.A.V.E. saying that it does not comply with the comprehensive plan, zoning and subdivision regulations, or the comp plan illegally approved on November 22, 2005. She read part of Nebraska State Statute 23-114.03 indicated zoning regulations are not consistent with the comprehensive development plan. She indicated there is a misdirection of resources with the water study not being complete. She brought attention to the fact that there are three members of the Planning Commission who have not filed paperwork with the NADC (Nebraska Accountability and Disclosure Commission).

Chairman Wear then read the rest of the criteria from the State Statute.

Connie Anderson said this does not meet the new comp plan and wanted to know how you can approve it when the Planning Director has already said it was environmentally constrained?

Bernie Citta stated he had previously farmed that property and wanted to know if the slope was checked for compliance. He added he opposes this application.

Rick Houck noted the tree canopy was the biggest constraint.

Bernie Citta added that there doesn't seem to be any concern about water runoff.

Tom Wees asked Mr. Citta if there was water runoff when he farmed the property?

Public Hearing Closed at 9:55 p.m.

John Vandenbroucke noted Mr. Houck's mistaken calculation of the tree mass and noted the comp plan is a guide, not regulation.

Tom Wees stated the comp plan is a good guide, but it is up to the Planning Commission and the County Board to make the final judgement.

Don Fenster noted that, even though it does not comply with the comp plan, it is still a good plan. He also noted that numerous public hearings were held for the comp plan and a consultant was hired for his expertise. Legal counsel was involved in this process all the way through, as well.

Doug Whitfield asked if the comp plan could be amended.

He was informed that it could not be amended tonight as it was not advertised.

Further discussion about the comprehensive plan, preservation and conservation continued.

- ▶ *Fenster moved, seconded by Dunbar to recommend denial of a Change of Zone from AG to AGR as it does not meet the comp plan. Ballot: Ayes - Dunbar, Fenster and Irwin. Nays - Wees, Whitfield and Wear. Abstain - none. Absent - Burry, Fanslau, Labart and Meyer. Motion failed.*
- ▶ *Wear moved, seconded by Wees to recommend approval of a Change of Zone from AG to AGR as it is the best use of the property. Ballot: Ayes - Wees, Whitfield and Wear. Nays - Dunbar, Fenster and Irwin. Abstain - none. Absent - Burry, Fanslau, Labart and Meyer. Motion failed.*
- ▶ *Fenster moved, seconded by Wear to table the application for the Change of Zone and the Preliminary Plat until the next regular meeting. Ballot: Ayes - Fenster, Irwin, Wees, Whitfield and Wear. Nays - Dunbar. Abstain - none. Absent - Burry, Fanslau, Labart and Meyer. Motion carried.*

- I. John Vandenbroucke, Andy Harpenau and Kenneth Harpenau, P. O. Box 124, Gretna, request approval of a Preliminary Plat for a subdivision to be known as Platford Hills on the following described property, to wit: Part of Tax Lot 1A1A, together with part of vacated Heisner 1st Subdivision, now known as Tax Lot 1A1C, all being located in a part of the NW1/4 of the SE1/4, the SW1/4 of the NE1/4 and the SE1/4 of the NW1/4 of Sec 18, Twp 12N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (196th & W. Highway 31)**

****Motion for the Preliminary Plat was included in the prior motion to table****

III. CORRESPONDENCE.

Tom Wees, Courtney Dunbar and Don Fenster indicated they would like to register for the NPZA (Nebraska Planning & Zoning Association) conference this year.

IV. ADJOURNMENT.

Being no further discussion, *Wees moved, seconded by Irwin to adjourn the meeting. By a*

unanimous oral vote, Chairman Wear declared the meeting adjourned at 10:17 p.m.

Respectfully Submitted,

Sarpy County Planning Commission
Alan Wear, Chairman
Cindy Gilbert, Recording Secretary