



SARPY COUNTY DEPARTMENT OF PLANNING

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REBECCA HORNER, DIRECTOR

PLANNING COMMISSION MEETING MINUTES

October 29, 2008

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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 a regular meeting on October 29, 2008, in the County Board Room at the Sarpy County Courthouse, Papillion, Nebraska. Chairman Wees called the meeting to order at **7:00** p.m. with the following members present: Susie Bliss, Courtney Dunbar, Don Fenster, Bernie Marquardt, Jerry Torczon, Alan Wear, Thomas Wees, and Doug Whitfield. Absent were: Greg Gonzalez, Stacen Gross and Bill Krebs. Also in attendance and introduced were the staff members: Rebecca Horner, Planning Director, Nicole O'Keefe, Deputy County Attorney and Michelle Alfaro, Planning Assistant.

Chairman Wees noted that a copy of the Open Meeting Law is posted in the Board Room.

Chairman Wees asked for a motion to approve to agenda.

- *Fenster moved, seconded by Bliss to amend the agenda as requested by the Planning Director, to table items D and E to the November meeting. Ballot: Ayes- Bliss, Dunbar, Fenster, Marquardt, Torczon, Wear, Wees, Whitfield. Nays – none. Abstain – none. Absent – Gonzalez, Gross, and Krebs. **Motion carried.***

Chairman Wees asked for a motion to approve the September 17, 2008, minutes.

- *Bliss moved, seconded by Marquardt, to approve the minutes of the September 17, 2008, meeting as submitted. Ballot: Ayes- Bliss, Fenster, Marquardt, Torczon, Wear, Wees, Whitfield. Nays- none. Abstain - Dunbar. Absent – Gonzalez, Gross and Krebs. **Motion carried.***

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.

II. **REGULAR AGENDA ITEMS:**

- A. **Western Land Company, LLC**, 10580 S 147th Street, Omaha, requested approval of a Final plat to be known as **Wicks Southpointe**, being a platting of Tax Lot 10 of the SE ¼ in Section 34, Township 14N, Range 11E of the 6th P.M., Sarpy County Nebraska. (I-80 & 168th Street)

Discussion:

Larry Jobeun came forward to discuss options with 168th Street access. He proposed a temporary turnout to prevent access to 168th Street.

Commissioners questioned Dust control on 168th Street as the agreements show home owners not having to bear the costs.

Mr. Jobeun suggested to continue paving Wickersham Blvd, Block 168th Street off, and provide a turnout to avoid dust control problems due to minimal traffic on 168th Street.

Ms. Bliss asked for clarification on if the access is one way in and one way out.

Ms. Horner stated the Planning staff needs to analyze the proposal on 168th Street as the traffic study is not organized to include that request. Ms. Horner is not certain if a change in turn around will have an impact on traffic, or if it is a desirable solution for the County. She stated the County may require two ways in and two ways out. The Planning staff will review and include in November 18th meeting.

Matthew Kruse came forward to discuss the traffic study report. Figure 19 in the additional information section represented year 2010 and showed 228 from the west and from the east and 32 coming straight through. Mr. Kruse indicated that it is approximately 500 trips that would be answering with 50% of the traffic using 168th Street. Mr. Kruse stated that anywhere from 8-12% of the traffic, approximately 186 to 253 which averaged approximately 210 cars are turning left during the day.

Ms. Horner stated that the Planning Department has not received review comments from NDOR as they have not finished their review comments. Final comments should be received prior to the November 18th meeting.

Ms. Horner indicated a meeting will be required to meet and reach a consensus as the County Board does not want to move forward until the Subdivision Agreement is signed. Ms. Horner stated a meeting will take place November 18th to get an acceptable subdivision agreement to present to County Board.

Matthew Kruse indicated by 2010 that Sapp Bros Drive and Wickersham Blvd will not be an acceptable intersection based on time delays.

Larry Jobeun came forward and stated that if the intersection is blocked as a temporary fix it could be re-opened if it caused a number of problems on Highway 370. Mr. Jobeun noted it was agreed before the subdivision agreement put calcium chloride on the gravel.

Public Hearing closed at 7:20 P.M.

Rebecca Horner stated with the condition of the project continuing upon necessary changes, working out timings and contributions with subdivision agreement, which is a financial issue, that the project is in conformance with the Comprehensive Plan and she recommended approval.

Motion

* *Torczon moved, seconded by Wear to approve subject to staff recommendation to working out issues of subdivision agreement as recommended by Planning Staff. Ballot: Ayes – Bliss, Dunbar, Fenster, Marquardt, Torczon, Wear, Wees, Whitfield. Nays – None. Abstain – none. Absent – Gonzalez, Gross, and Krebs. **Motion carried.***

B. Gretna Rural Fire District, PO BOX 185, Gretna, Nebraska, requested approval of Preliminary Plat, Final Plat, and Change of Zone from AG, Agricultural, to RS-100, Single Family Residential, to be known as **Gretna Rural Fire** located on the following described property, to wit: a parcel of land a portion of the SW ¼ of the NW ¼ of Section 27, Township 14N, Range 11E of the 6th P.M., Sarpy County, Nebraska (south of Cornhusker Road east of 168th Street)

Discussion:

Mr. Whitfield posed concerns with RS-100 and the 10 foot side yard set-back requirement. The way property lays out if you look to develop into subdivision it would have been the rear yard not side yard; therefore, set-backs would have been larger. The plan shows more than the setback requirement; however, he is uncertain that 30 feet is enough in this case.

Rod Buethe came forward to address the question of if the facility is primarily a fire station or if it also be a training facility.

Mr. Buethe stated there could be some training at the facility. If training takes place it should end by 9:00 P.M. or 10:00 P.M. at the latest. Mr. Buethe addressed concerns of being to close to the back lot-line and indicated that they suggested that to the engineer and if they shift it further to the south to put a driveway in, there will be landscape buffering and a driveway between the lot-line which is further than what the picture showed.

Mr. Buethe stated that they eventually would like to see an emergency traffic light out front although they haven't gotten that far yet.

Mr. Buethe stated that the preliminary elevations have not yet been completed, the exterior design is not yet complete, but will try to fit into the neighborhood design instead of just a metal building.

Mr. Wees questioned the landscaping since it is a high traffic area it could create a landscape barrier for vision to that highway.

Mr. Buethe indicated that all required information had been submitted.

Ms. Horner stated that the information submitted did not meet the requirements of landscaping by road.

Ms. Horner clarified that in order to receive a waiver the Planning Commission would need to make a recommendation to County Board and the County Board would need to approve it through the Subdivision Regulations.

Mr. Gilligan, Mayor of Gretna, came forward and stated his main concern was when the rescue squad received a call to go up to 168th & Harrison it has taken them 10 minutes in response time. If they are called during a certain time frame it could take even longer to get to them. Mr. Gilligan stated the new first station should cut down on response time. Mr. Gilligan requested approval of the application for Gretna Rural Fire District.

Bob Keenen, a resident by the proposed fire station, asked where the additional streets will be going. Mr. Buethe stated that Tom Lynam would not allow two entrances that close together coming out from south into development when it develops. Mr. Buethe believes Tom Lynam would require a second entrance to Tiboron Estatic and further down to the farm house plus will tie into 166th Street.

Ms. Horner noted street connections allow greater vehicular and pedestrian connectivity and connections will be made at existing slab street locations.

Public Hearing Closed at 7:45 p.m.

Motion

- *Dunbar moved, seconded by Bliss to recommend approval of Change of Zone from AG, Agricultural, to RS-100 Single Family Residential as requested for the Gretna Rural Fire District on the parcel of land which is stated within the agenda as it meets with Comprehensive Plan and zoning requirements. Ballot: Bliss, Dunbar, Fenster, Marquardt, Torczon, Wear, Wees, Whitfield. Nays – none. Abstain – none. Absent – Gonzalez, Gross, and Krebs. **Motion Carried***
- *Dunbar moved, seconded by Bliss to recommend approval of the Preliminary Plat as requested for the Gretna Rural Fire District on the parcel of land as stated in the agenda as it meets with the Comprehensive Plan and zoning requirements Ballot: Whitfield, Wees, Wear, Torczon, Marquardt, Fenster, Dunbar, Bliss. Nays – none. Abstain – none. Absent – Gonzalez, Gross, and Krebs. **Motion Carried***

Mr. Whitfield discussed having an easement on land that is not owned and controlled by the Gretna Rural Fire District for gas, water and sanitary utilities. Mr. Whitfield stated that it is odd to see an easement request on a property not owned by the applicant to get utilities on the property as you have to get the easement from the landowner. The landowner may say you cannot run the utilities through the lot.

Mr. Buethe stated they were instructed that was the only place to request the easement and if the easement not granted then other options such as eminent domain may be required.

Rebecca Horner stated that she wanted to make sure the proposal is feasible, and the Planning Commission could make the plat contingent upon providing evidence that the easement has been recorded with the register of deeds.

- *Dunbar moved, seconded by Bliss to recommend approval of the Final Plat as requested for Gretna Rural Fire District on the parcel of land as stated in the agenda as it meets with Comprehensive Plan and zoning code of Sarpy County. Ballot: Bliss, Dunbar, Fenster, Marquardt, Torczon, Wear, Wees, Whitfield. Nays – none. Abstain – none. Absent – Gonzalez, Gross, and Krebs. **Motion Carried***

C. Hoich 192nd LLC, 4418 S. 180th Street, requested approval of a Special Use Permit, to be known as **Pawradise Animal Daycare** on the following described property, to wit: Lot 4 Sugar Creek Neighborhood Center in the Northwest Quarter of Section 17, Township 14N, Range 11E of the 6th P.M., Sarpy County, Nebraska. (190th Edna Street)

Discussion:

Mike Sexton, HWS project engineer, came forward and John Hoich, a member of Omaha Planning Board, requesting a Special Use Permit for a doggy daycare because want to let them stay overnight.

Ms. Bliss requested details of an overnight visit.

Cari Brown, business owner, came forward to state that the doggy daycare is scheduled to close at 6PM, but will have obedience training classes a couple days per week and will close at 7:00-7:30. Overnight would be for when people are going out of town, and then they come back and pick up the animals. They would stay the night inside the building.

Ms. Brown indicated the facility will be catering to dogs, but will also have cat boarding. No hoofed animals. Dogs and cats only.

Mark Sanford, Architect, came forward to discuss the appearance of the building and stated it will have a very residential look with asphalt shingles, brick, siding on one elevation, and will be very residential and appealing in appearance. Outside will be hard surfaced, run areas will be grass and fenced in. Site slopes down to the creek bed, and the runs are down behind the building itself. No runs will be out front or along parking lot.

Mr. Hoich shared they proactively held a meeting with the entire neighborhood Monday night, advertised it, and the president of SID board came and was pleased with everything.

Public Hearing Closed at 8:02 p.m.

Ms. Bliss asked the applicant if the contingencies were okay.

Mr. Sexton noted that all conditions in the ataff report were acceptable.

Mr. Wear asked if the Zoning Regulations specify time lines for certain special use permits.

Ms. Horner stated that the zoning regulations specify timelines for certain types of special use permits. In this case, no time line is attached so it is at the discretion of the Planning Commission. Ms Horner recommended a time line not be attached to the special use permit.

Motion

- *Marquardt moved, seconded by Dunbar to recommend approval of the special use permit provided that the site plan be amended to show a 6 foot high opaque fence around the outdoor exercise area and a sidewalk is shown along Edna Street as it meets with Comprehensive Plan and zoning code of Sarpy County. Ballot: Ayes – Bliss, Dunbar, Fenster, Marquardt, Torczon, Wear, Wees, Whitfield. Nays – none. Abstain – none. Absent – Gonzalez, Gross, and Krebs. **Motion carried.***

Whitfield asked for clarification as to whom the Special Use Permit is issued.

Ms. Horner stated that the special use permit is issued to the applicant, Hoich, in this case. Special Use Permit's are attached to the legal description of the property so it would essentially run with the land. If the use was to change to something else that is permitted in that district, they would probably need to come back with a site plan.

Nicole O'Keefe stated the Special Use Permit will be tied to the property as applied for so it is the Pawradise Daycare so as long as it is used as the special use is granted, it is permitted unless the Planning Commission puts a timeline on it.

- D. Boyer Young Development Company** 9719 Giles Road, requested approval of a Preliminary Plat, Change of Zone from AG, Agricultural to RD-50, Two-Family Residential District, and Comprehensive Plan Amendment, to be known as **Whitetail Creek**, on Tax Lots 8 & 9, located in the SW ¼ of Section 17, Township 14N, Range 11E of the 6th P.M., Sarpy County, Nebraska. (192nd & Giles)

Tabled to November 19, 2008 Planning Commission Meeting through the motion to approve the amended agenda.

- E. EBD Holdings Inc**, 1125 S 103rd Street, requested approval of a Preliminary Plat and Change of Zone from RG-35, General Residential, to RD-50-PTD, Two-Family Residential District / Planned Townhouse Development, and AG, Agricultural, to be known as **Sunridge West** on the following described property, to wit: part of Tax Lot 2, A Tax Lot in the NE ¼ of Section 17 and part of the Tax Lot 12A, a Tax Lot in said NE ¼ of Section 17, all in the Township 14N, Range 11E of the 6th P.M. Sarpy County, Nebraska. (184th & Harrison Street)

Tabled to November 19, 2008 Planning Commission Meeting through the motion to approve the amended agenda.

- F. Dowd Grain** requested a text amendment to the Highway Corridor Overlay District.

Mr. Torczon abstained and left the meeting due to a conflict of interest.

Discussion:

Nicole O'Keefe approached the Commission and stated that the County Attorney's office requested to table the item for the purpose of allowing the attorney's office to review the legal ramifications for the proposed changes. A memo was handed out to Planning Commissioners and to Mr. Dowd, the applicant.

Mr. Wees requested the reaction of the Planning Commissioners in regard to the County Attorney's request.

Mr. Wear questioned if the request should come from the applicant.

Nicole O'Keefe stated that as a body, the Planning Commission has the option to approve, approve with recommendation, deny or table an item and the applicant can also request the approval, approval with recommendations or to table the item.

Ms. Horner indicated the public hearing should be opened since it was advertised.

Ms. O'Keefe stated the public hearing does not need to be opened.

Ms. Bliss requested examples from Ms. O'Keefe on the issues that need to be addressed.

Ms. O'Keefe stated that based on current litigation the attorney's office is unsure of how the amendments will effect these issues.

Mr. Wees stated the item has been advertised and the applicant has not requested to be pulled off agenda.

Mr. Whitfield suggested if legal counsel was suggesting that the hearing may create more problems than it solves then it may be better to wait until courts figure out what they are going to do.

Mr. Wear stated the question should be taken into consideration of going to the applicant. By delaying it the applicant could be set back at least one month. If it goes to the County Board they can table it as long as they want.

Mr. Fenster stated he is not in favor of changing the Highway Corridor Overlay District regulation. He stated that the legal issues need to be resolved. Mr. Fenster questioned whether or not the legal issues could be addressed by the time the next board meeting takes place.

Ms. O'Keefe stated that the Attorney's Office was asking for a time frame in order to examine the opinion that came down and understand the legal ramifications of that and make the decision prior to opening the discussion of this clearly significant issue. Ms. O'Keefe clarified that the request to table is for one month to the November meeting.

* Whitfield moved, seconded by Bliss to make a motion based on the advice of our counsel that we table this agenda item to the November meeting. Ballot: Ayes – Bliss, Dunbar, Fenster, Marquardt, Whitfield. Nays – Wear, Wees. Abstain – none. Absent –Gonzalez, Gross, Krebs and Torczon
Motion carried.

Ms. Horner asked for clarification on if the legal counsel was saying the board may not open the public hearing or if they may, since people were there to speak.

Mr. Wear asked Ms. O'Keefe on when an applicant places an application, can they be trumped at the meeting and have the item tabled against their own request.

Ms. O'Keefe stated that the Planning Commission has the authority to table the item outside of the applicant's wishes.

Mr. Wear asked if the applicant was aware of the request to table the item prior to the meeting. Ms. O'Keefe stated that Michael Smith from the County Attorney's office contacted him about the intent of the attorney's office.

Mr. Dowd denied that the intent of tabling the item was revealed to him.

Mr. Dowd came forward and stated that in September the Planning Director said that she was told by the county attorney at that time that it was not proper notice to hear this item because it was not specific enough. Mr. Dowd stated the Planning Director informed him that he could do it himself because of a section in the regulations. The reason it was going to start in September was because back in January the County Board said they wanted to make everything consistent. It had nothing to do with the litigation and it still has nothing to do with the litigation. The County Attorney brought up the litigation today.

III. CORRESPONDENCE:

Discussion of Architectural review committee

On Tuesday the County Board made appointments for the Architectural Review Committee which is provided for in the zoning regulations of the Highway Corridor Overlay District. In Section 32.5.2 A3 provides for an Architectural Review Committee that shall consist of the Planning Director, Planning Commissioner, Architectural Engineer, Commercial Real Estate Developer, along with an alternative for each position and those people appointed are Susan Bliss, Tom Wees, Jared Morris (PE Olsson Associates), and Alan Tast (AIA, Leo A. Daly) and Scott Brown (Quantum Development) and Salvadore Carta (Lerner Company). They will serve one year terms. Their terms will expire 12-31-2009 and they will be re-appointed on an annual basis. They will meet if there is a request for waiver of any of the design guidelines in the Highway Corridor Overlay District and the Committee will make a recommendation to the County Board.

Mr. Wees questioned if the committee will be involved in all design.

Ms. Horner clarified that it is only for a request for waiver. That is what the regulation stated.

Mr. Wees questioned if one person will make the design decisions.

Ms. Horner clarified that there is a site plan review process that takes place during the building permit process, but is not a design review. The Planning Department would review the building permit, and the materials used to make sure the design guidelines as specified in the Highway Corridor Overlay District are met. If the applicant requested a waiver they do that through the Architectural Review Committee.

Ms. Horner stated logistically if it is the desire of the Commission that every building permit in the Corridor be reviewed by this Architectural Review Committee building permits would probably be delayed.

Mr. Wees stated that on major structures and major developments the Architectural Review Committee should meet.

Ms. Horner stated that these guidelines are applied at the time of the building permit.

Mr. Whitfield stated that it had nothing to do with the Planning Commission other than two of the Commissioners being on the Committee.

Ms. Horner stated the typical procedure for enforcement of the entire zoning regulations is the Planning Director's interpretation. The Planning Director reviews all building permits with the exception of just a couple, such as Single Family Residential. A determination is made on use in not only the Highway Corridor but every single district that comes forward and the check and balance is the Board of Adjustment so if there is a dispute the applicant has the authority to appeal to the Board of Adjustment and ultimately to the District Court. So an appeal procedure is available if there is an issue with the Planning Director's interpretation.

Storm Water Management Regulations

Next month we will have the Storm Water Management Regulation amendments on the agenda. This is part of the NPDS permit. We have been working with the Papio-Missouri River Partnership, We are required to have these adopted by January 2009. Draft amendments will go to the November 19th Planning Commission meeting and hopefully move forward to the County Board so they can be adopted by January so we are in conformance with our NPDS permit.

IV. ADJOURNMENT:

Being no further discussion, *Wear moved, seconded by Bliss to adjourn the meeting.* By a unanimous oral vote, Chairman Wees declared the meeting adjourned at 9:01 p.m.

Respectfully Submitted,

Tom Wees, Chairman
Michelle Alfaro, Planning Assistant