



SARPY COUNTY DEPARTMENT OF PLANNING

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REBECCA HORNER, DIRECTOR

PLANNING COMMISSION MEETING MINUTES

November 19, 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 November 19, 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: Susan Bliss, Greg Gonzalez, Stacen Gross, Bill Krebs, Jerry Torczon, Thomas Wees, and Doug Whitfield. Absent were: Courtney Dunbar, Donald Fenster, Bernie Marquardt and Alan Wear. Also in attendance were the staff members: Mark Wayne, County Administrator, 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.

Michelle Alfaro read the rules for the public hearing portions of the meeting.

Chairman Wees asked for a motion to approve to agenda.

- *Bliss moved, seconded by Whitfield to adopt the agenda as stated. Ballot: Ayes- Bliss, Gross, Torczon, Wees, Whitfield. Nays – none. Abstain – Gonzalez and Krebs. Absent – Dunbar, Fenster, Marquardt and Wear. **Motion carried.***

Chairman Wees asked for a motion to approve the October 29, 2008, minutes.

- *Bliss moved, seconded by Whitfield, to approve the minutes of the October 29, 2008, meeting as corrected on page seven to read "Whitfield moved, seconded by Wear". Ballot: Ayes- Bliss, Torczon, Wees, Whitfield. Nays- none. Abstain –Gonzalez, Gross and Krebs. Absent – Dunbar, Fenster, Marquardt and Wear. **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. **Boyer Young Development Company** 9719 Giles Road, requests 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)

Discussion:

Bob Doyle came forward to speak on behalf of the applicant. Mr. Doyle noted that the plat will show the corner that is best suited for the Mixed Use is somewhat environmentally challenged and would probably not be the best use. Mr. Doyle speculated that the commercial business generally will follow the rooftops and there could be plenty of developers that will follow Boyer Young to the area.

Mr. Doyle commented on the Preliminary Plat which was a request for approval of 560 single family lots and 264 multi-family units. The multi-family units will be located on the northeast part of the property. Mr. Doyle stated they can comply with all of the requirements that the Planning Department has stated. Mr. Doyle stated all lots are 5,000 plus square feet.

Ms. Bliss commented on the progress made within the last month.

Mr. Doyle stated they have met with the Planning Director and staff. Mr. Doyle stated they have worked with the neighbors west and the school and the park was changed from the southwest corner and the school district liked the change much better. Mr. Doyle stated the school district will seek bonds for funding after the first 40 rooftops are built.

Jarel Vinduska came forward from the Schram association for a viable environment (SAVE). Mr. Vinduska stated that SAVE was formed to promote sustainable land development in the Schramm Park District of Sarpy County. Mr. Vinduska noted that although this project is not in the district that part of the responsibility for good land stewardship, and to develop land properly, is to manage storm water properly. As this development moves closer to this district, Mr. Vinduska hopes the papio-partnership-rules will be enforced. Mr. Vinduska stated it was decided two years ago that there were going to be storm water plans prior to the preliminary plat stage. It was also agreed that they were going to go by the recommendations by the Papio NRD. The Papio NRD recommended that storm water plans be submitted before it is approved at the preliminary plat stage. There will be a tremendous amount of runoff at this property due to a great percentage of impervious surfaces and there has been nothing discussed about how it will be controlled. Mr. Vinduska asked the Planning Commission to deny the application until it is reviewed to see how they will control the storm water.

Public Hearing closed at 7:15 P.M.

Ms. Bliss inquired on the status of the NRD comments.

Ms. Horner stated that the comments were received and included. There were some storm water management requests which will be resolved prior to scheduling the item to County Board. The Subdivision Regulations call for preliminary drainage plans, which were provided with the application. Stormwater management plans are received prior to building permit. The regulations will be revised, but the applicant did meet the requirements of the Preliminary Plat and Supplemental Data for submittal to Planning Commission. A contingency will be required for the applicant to submit and resolve all of the NRD comments prior to being scheduled to the County Board. Ms. Horner

clarified the application will not be taken forward to the County Board until the comments are resolved.

Ms. Bliss noted that Mr. Lynam didn't mention anything about the bridge and requested the Planning Director speak to him and take his comments into consideration.

Mr. Doyle stated they have complied with regulations.

Motion

- Torczon moved, seconded by Bliss to approve the Comprehensive Plan Amendment and meeting all stipulations of the planning department settling all outstanding issues prior to moving forward to the County Board. Ballot: Ayes – Bliss, Gonzalez, Gross, Krebs, Torczon, Wees, Whitfield. Nays – None. Abstain – none. Absent – Dunbar, Fenster, Marquardt and Wear. **Motion carried.**
 - Gonzalez moved, seconded by Bliss to recommend approval of the Change of Zone AG, Agricultural to RD-50 Two- Family Residential and RG-15, General Residential, meeting all stipulations of the Planning Department to settle all outstanding issues prior to moving forward to the County Board based on the recommendation of the Planning Director. Ballot: Ayes – Bliss, Gonzalez, Gross, Krebs, Torczon, Wees, Whitfield. Nays – None. Abstain – none. Absent – Dunbar, Fenster, Marquardt and Wear. **Motion carried.**
 - Whitfield moved, seconded by Bliss to recommend approval of the Preliminary Plat to be known as Whitetail Creek provided that the staff comments are resolved prior to scheduling to County Board as the Preliminary Plat meets the zoning and subdivision regulations of Sarpy County. Ballot: Ayes – Bliss, Gonzalez, Gross, Krebs, Torczon, Wees, Whitfield. Nays – None. Abstain – none. Absent – Dunbar, Fenster, Marquardt and Wear. **Motion carried.**
- B. EBD Holdings Inc, 1125 S 103rd Street, requests 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)**

Discussion:

Bob Doyle came forward on behalf of the applicant EBD Holdings. This application will approve 65 townhome sublots and 30 single family lots on a 14.5 acre site, which is adjacent to and an extension of, the existing Sunridge Subdivision. It is approximately 95 lots and will be more-or-less the same as Sunridge. Mr. Doyle stated there are no problems with any comments that have been made by the Planning Department.

Public Hearing Closed at 7:25 p.m.

Motion

- Bliss moved, seconded by Gonzalez to recommend approval of Change of Zone from RG-35 to RD-50-PTD contingent upon the comments provided by the Planning Director. Ballot: Bliss, Gonzalez, Gross, Krebs, Torczon, Wees, and Whitfield. Nays – none. Abstain – none. Absent – Dunbar, Fenster, Marquardt and Wear. **Motion Carried**

- *Krebs* moved, seconded by *Gross* to recommend approval of the Preliminary Plat for Sunridge West contingent upon resolution of staff comments prior to scheduling to County Board as it meets the zoning and subdivision regulations of Sarpy County. Ballot: Bliss, Gonzalez, Gross, Krebs, Torczon, Wees, and Whitfield. Nays – none. Abstain – none. Absent – Dunbar, Fenster, Marquardt and Wear. **Motion Carried**

- C. **Beacon View Inc.**, 4209 S. 149th Street, requests approval of Final Plat of a subdivision to be known as **Beacon View First Addition**, on the following described property, to wit: Tax Lot 2, Part of the SW ¼ of the NW ¼ of Section 29, Township 13N, Range 10E of the 6th P.M. Sarpy County, Nebraska. (Highway 6 and the Platte River)

Discussion:

Chris Dorner with Thompson, Dreesen and Dorner came forward and requested approval of the Final Plat of lot 27 Beacon View First Addition. Mr. Dorner stated the Final Plat is one of the five lots shown on the Preliminary Plat that was submitted and approved. The Final Plat will be prepared in conformance with the staff report.

Bob Schnaidt chairman of Beacon View stated the Final Plat will finish what was started in 2001 and they have been working with Sarpy County and the NRD to plat the remainder of the area. Lot 27 was bumped ahead because other four lots were delayed due to required engineer reports.

Mr. Whitfield asked for clarification on the replacement lot.

Ms. Horner stated she met with applicants and that specific issue was not addressed, but that the applicant stated in their testimony that they will satisfy staff requirements.

Mr. Whitfield asked if there be a change in configuration to change to turn it into an outlot.

Mr. Schnaidt stated the five lots being platted replace lots that are not allowed to be platted because they are below the flood level.

Ms. Connie Anderson came forward and opposed granting the lot in the flood way. Ms. Anderson referenced a flood in the spring and stated Beacon View was one that had to be evacuated at cost of tax payers. Ms. Anderson stated that the people living in these areas should be allowed to be reduced by attrition, which means not allowing further development even as a replacement to prevent the tax payer from having the tax burden from flooding in the future.

Mr. Bill Hayes, resident of lot 27, clarified that the property has been there since 1984 and he has paid taxes since 1984. It is not a new addition it is the platting of the land for the home owner.

Public Hearing Closed at 7:33 p.m.

Mr. Whitfield questioned if the NRD reviewed this request.

Ms. Horner stated the NRD reviewed the request and their comments were on page C3 of the agenda packet from Amanda Grint. Ms. Horner stated the NRD had no comments.

Mr. Whitfield questioned the shapes on the aerial drawing.

Ms. Horner stated the aerial is correct and the issue was discussed with the applicant and will be resolved prior to County Board.

Motion

- Bliss moved, seconded by Gross to recommend approval of the Final Plat contingent upon resolution of staff comments and other requirements. Ballot: Ayes – Bliss, Gonzalez, Gross, Torczon, Wees and Whitfield. Nays – Krebs. Abstain – none. Absent – Dunbar, Fenster, Marquardt and Wear. **Motion carried.**
- D. **Dowd Grain** requests a text amendment to the Highway Corridor Overlay District.

Mr. Torczon left the meeting at 7:37 P.M.

Discussion:

Mr. Duane Dowd came forward and stated that he was not trying to alter what the ordinance does but to have everyone covered within the designated area and eliminate the exemptions. Mr. Dowd provided a handout of a drawing. He indicated the yellow properties are subject to the overlay district guidelines and the pink properties would fit under the exemption by being platted prior to March of 2004. The purpose of the drawing was to show that right next to each other are properties that have to comply with the guidelines and properties that do not have to comply. Mr. Dowd stated the pink properties have no guidelines. Mr. Dowd stated there is nothing unique about having a platted property that should entitle this type of exemption. The yellow lots are small enough to build on and were created by tax lots and there is no reason to draw a line between the two properties. Mr. Dowd stated nice structures will make bond holders feel better and create better tax value. It is unique as far as the Planning Director and Papillion Planning Director as they did not know of any instance where there are exemptions to building guidelines. No restrictions on use only the guidelines of how it looks.. There isn't any damage to not have the exemption the only damage is to the people that might build something and then devalue what you have. The county board addressed this issue in January, they had a retreat and at that time they voted to make everything consistent and thought it was wrong to be inconsistent and have different rules for different properties and to allow this type of exemption.

Mr. Wees questioned if the board stated they would change it.

Mr. Dowd clarified that he was not there.

Mr. Dowd stated in September Rebecca Horner pointed out provision for him to request the amendment.

Mr. Wees questioned if Mr. Dowd hired Mr. Stursma to work for him.

Mr. Dowd stated that Mr. Stursma does not work for him.

Mr. Krebs questioned if buildings built prior 2004 and buildings built after 2004 have to comply.

Mr. Dowd stated the building is not the determinate. The building built before March 2004 would not have to do anything. The building built after March 2004 to May or June 2007 would comply with the previous overlay district that was in place. Mr. Dowd stated this ordinance exempted lots platted before March 2004, whether they were built on or not. Mr. Dowd stated that it was made broader by adding the language that any lot platted before that time could be re-platted, split, or consolidated and would still remain exempt.

Mr. Wees stated that the regulations were adopted in 2007. Mr. Wees stated that Mr. Dowd was suggesting changes in the overlay district.

Mr. Dowd clarified his suggestion was for the removal of exemptions only, not the requirements.

Patrick Sullivan came forward and represented landowners in the area. Mr. Sullivan stated he sat on sub-committee for Sarpy County Zoning Regulations two significant areas of the zoning code were discussed, specifically the environmental overlay and highway overlay. Mr. Sullivan stated several meetings were scheduled over a number of months, issues were discussed and this particular issue was at forefront of the discussion. Mr. Sullivan clarified that this is not a correction for a technical amendment or something that was overlooked. Mr. Sullivan stated this was a significant matter that took significant discussion not only in the sub-committee but before the Planning Commission, as well as, the County Board. Mr. Sullivan stated not just one public hearing, but several, took place and ultimately adopted the grandfather rights. Mr. Sullivan stated the most compelling reason the grandfather rights are protected was because of the commitments that were made to people when they decided to pull properties out of Agriculture and Greenbelt taxation, to plat those properties and proceed with development. The plat was done through engineering and gives consideration to topography and building orientation. Mr. Sullivan stated that in the code of the Highway Corridor building orientation comes into effect, where bay doors should not face the interstates, which is a problem when topography lays in such a way that you have to place the doors that way. Mr. Sullivan stated if the property has been platted with the anticipation that you can orient buildings in a certain direction and then the code changes and you have to orient the buildings in certain ways, it may make significant changes on how the plat should have been layed out. Mr. Sullivan stated in 2007 the grandfather clause was clarified because as a Planning Department and a County Board it was realized that if a plat was to be grandfathered, someone had to move a line, or re-plat a lot, that should entitle them to an exemption. Mr. Sullivan suggested that the Planning Department speak with the stake holders and discuss issues and problems, study and proceed forward between the parties.

Ms. Bliss questioned what commitments have been made.

Mr. Sullivan stated the commitments are financial commitments. Most of the time different stages of ownership and most of the time a developer is before you with the intention to develop the property in a short period of time and has large infrastructure that has to be put in and is anticipating that the plat or lot be will be sold over number of stages over a number of years. When the developer comes in with the ideas and plans, and zoning planned for and figures finances based upon that. The commitments were what the grandfather clause addressed. New plats that come in know that they will have to deal with these issues and can use a financial model to figure these details out.

Mr. Jobeun came forward to represent the landowners that would be affected by the proposed amendments. Mr. Jobeun concurred with Mr. Sullivan said. Mr. Jobeun stated that the original Highway Corridor as adopted, and later as amended, were done through a number of collaborative efforts and meetings between the private and public sectors through extensive discussions. Mr. Jobeun stated the original intent of the Corridor guidelines were clear and were meant in the beginning to exempt out what was exempted out in the 2007 amendments. Mr. Jobeun stated the reason why was because the intent was clear to protect the investment backed expectations of landowners, developers, builders, investors, fiscal agents, and others including warrant holders and bond holders. Mr. Jobeun referenced the Commerce Business Centre and stated that the plat showed the streets layed out, the grade was set, and now the business owner will be asked to orient the buildings in conformance with the corridor guidelines, which doesn't work after a property has been graded. Mr. Jobeun referenced his previous statement regarding the investment backed expectations to be developed in the manner and that there would not be additional requirements imposed. Mr. Jobeun stated that was extremely important and those factors were considered heavily when the Planning Commission and County Board decided that there should be certain exemptions with these Highway Corridor guidelines because people already had laid out the property, had

already put in public infrastructure and already made the investment decision to move forward. Mr. Jobeun stated they are trying to avoid unintended consequences. Mr. Jobeun recommended to do further studies with the stakeholder to avoid unintended consequences.

Mr. Robert Peterson, attorney, came forward to represent a property owner that would be affected by amendments. Mr. Peterson came to recommend denial. Mr. Peterson addressed Ms. Bliss' question regarding the commitments that have been made to the people and stated his client specifically inquired about the covenants when he bought the property and made specific review of this ordinance. Mr. Peterson stated his client spoke to Mr. Torczon and inquired of him as to if the property would be exempt to which his client was informed it was exempt. This change would significantly impact him because he bought it with that specific intent. Based on the apparent withdrawal of the request of the Planning Commission Mr. Peterson requested a layover because it needed more study.

Mr. Luke Klinker, on behalf of Omaha Steaks came forward and stated that he concurred with the three gentlemen before him and urged the commissioners to lay over the amendment. Mr. Klinker, added that his client, Omaha Steaks, was looking for a place to invest millions of dollars and build a multi-million dollar building based on assurances provided by the County that the overlay ordinance would not apply. Based on that assurance Omaha Steaks built the building and created over 100 new jobs and Mr. Klinker urged the commission to lay over the amendment.

Mr. Will Jones on behalf of Werner Enterprises came forward and concurred with the four speakers before him. Mr. Jones stated Werner Enterprises is a significant stake holder in this portion of the county depending on where the lines are drawn parts of the land have been and will be effected. Mr Jones directed his comments to address the type of commitments and investments that land owners make. Werner Enterprises for several decades bought large portions of land with the idea that the operations would grow and Werner Enterprises has experienced significant growth. There are still tracts of land that are not developed, but those are intended to be developed. Mr. Jones stated the importance of being able to utilize the property in a way that allows Werner to keep their operations continuous and to use the property in a way that fits with their longterm phase development. Mr. Jones stated in regard to building orientation that in order to conduct maintenance operation they are required to have two bay doors on opposite sides, with the existing overlay there is no way they could place the building to be in compliance with the regulation if it weren't for the exemptions granted within the regulation. Mr. Jones stated Werner is committed to working with Sarpy County and being involved in the process that involves a larger scale revision from the beginning.

Mr. Tim Dolan came forward to represent Cross Dillion Tire. Cross Dillion Tire built a store in Commerce Building Centre. Cross Dillion Tire came in on the heels of Omaha Steaks after receiving assurances from Permits and Planning Department, specifically, Ken Tex and Rick Houck, all of whom assured builders that were getting permits in the Commerce Business Centre that the Overlay District did not apply. Had Cross Dillion Tire not been given those assurances, they would not have built in the Commerce Business Centre.

Mr. Dowd came forward and stated Cross Dillion and Omaha Steaks were both represented by large law firms that knew what the law was and were not given assurance. The only assurance they received was from Ken Tex. With regard to the commitments there were not any commitments. They platted their lots. Mr. Dowd stated the orientation that Mr. Sullivan stated does have some truth, but it is not impossible. Werner can figure out how to conceal the doors on both sides of the building. Mr. Dowd provided the example of the Oriental Trading building and stated that you cannot see any doors on any side and it a beautiful building. He stated they could have built those buildings in the Highway Corridor. Mr. Dowd stated that he attended more meetings than all of the speakers and at the meeting when Mr. Sullivan drafted the final words to the ordinance that Mr. Dowd is trying to change. Mr. Dowd stated they did not spend a lot of time on that and it was done at the end of the meeting.

Mr. Wees stated that is not how he recalled the meeting and that the committee helped draft it.

Mr. Dowd stated that was not the long drawn out part and the exemptions happened at the end. The commitment the county board didn't happen with the committee it slid through with the exemptions. The entire purpose of the Overlay District, was to end up with a nice looking entrance into Sarpy County and all the way down Highway 370, which included trips to Des Moines. Mr. Dowd pointed out that most of the yellow is required to comply and is owned by himself and other people associated with Mr. Dowd. Mr. Dowd stated Werner was not in the district as far as he knew. Mr. Dowd stated he did not want a lay over to discuss whether or not his property should be exempt as he does not want to be exempt, he wants Sarpy County to be a beautiful area, like other cities and counties, without the exemptions. Mr. Dowd stated if the bond and warranty holders were present they would want tax base and would not object to this amendment.

Mr. Whitfield asked if Mr. Dowd is interested more in the architectural side or the look and the feel of the Highway Corridor.

Mr. Dowd stated orientation is very important and the look and the feel is important but primarily he was concerned about the type of building and having a nice attractive building.

Mr. Wees stated it is possible to design a building with doors on all four sides that is presentable. Mr. Wees stated that there are citizens, professional staff, and professional planners to review it and determine if it should be in Sarpy County. Mr. Wees referenced the land across the street from the Shadow Lake Shopping Center and questioned how they are going to cover all of the industrial land that is grandfathered.

Mr. Dowd stated that if they choose to build something on the land that Mr. Wees referenced, would have to comply and will have to be nice, where as the other land would not have to comply.

Mr. Wees indicated that Mr. Dowd was saying to rule everything out.

Mr. Dowd clarified that he was not saying that, but he stated that anything could be built because there are not any rules.

Mr. Dowd questioned Ms. Horner if there are any rules that state what can or cannot be built as far as the appearance of the building.

Ms. Horner requested clarification of Mr. Dowd's question and asked if his question was in reference to the areas where there was no overlay.

Mr. Dowd stated "or in areas where exempt".

Ms. Horner stated there are no building designs standards in areas that are outside of the overlay.

Mr. Dowd stated "or within the exempted area".

Ms. Horner clarified that was correct.

Mr. Wees stated they all have to meet the architectural standards.

Ms. Horner stated that there are architectural standards in the Highway Overlay Corridor. Ms. Horner stated that Mr. Dowd's question was outside of the Highway Corridor and in the exempted areas of the Corridor Overlay.

Mr. Wees asked Mr. Dowd if he had enough time to present his case.

Mr. Dowd stated he does not want a layover as he does not see the purpose of laying it over.

Ms. Horner stated since this item was tabled from the October meeting, She initiated contact with some of the stake holders in the Overlay District, and after speaking with them, Ms. Horner came to the conclusion that the best professional recommendation would be to sit down with those stake holders, which include the applicant, to work toward a consensus on the standards and Ms. Horner felt that the stakeholders were interested in maintaining dialogue. Ms. Horner stated she wanted to withdraw her previous recommendation regardless of whether or not a recommendation was made to move the item forward, as she will continue to work with the stakeholders on a separate amendment.

Mr. Whitfield asked for clarification on the inserted and deleted information on page D7 was what they were dealing with for this agenda item.

Ms. Horner stated item D7 was her recommendation and the applicant recommendation was on page D5 of the agenda. Ms. Horner stated that after the delay of the item in October, she was able to spend more time considering the changes and then initiated contact with the stakeholders, and she thought it was an opportunity for staff to work with the stakeholders, toward an overlay that most everyone can support.

Mr. Whitfield stated there are two sets of recommendations within one agenda, and questioned which the commission is moving on.

Ms. Horner stated the applicant is asking for the commission to consider page D5, Ms. Horner requested the commission, to not consider page D7.

Mr. Wees stated the Planning Commission received letters from Sapp Brothers and Mr. Reeder and confirmed all commissioners were in receipt of those letters.

Mr. Whitfield stated that he thought it was important that Ms. Horner reinstate the committee, but he also thought it was important to move forward as Mr. Dowd has been here two months in a row.

Mr. Jobeun came forward and represented stakeholders in the area and stated he is uncertain why the commission would move the item forward when they knew something else was going to follow. Mr. Jobeun questioned why they would send the amendment to the County Board when something better could follow it that has been worked out with the stakeholders. He stated Mr. Dowd's amendment request needed further study. Mr. Jobeun stated the amendment should be taken as a collective whole and recommended that the commission lay over the matter until further study of all the amendments can be reviewed with the stakeholders, and Mr. Dowd, has been completed.

Mr. Dowd stated his request was extremely narrow with regard to exemptions and will not change the details of the ordinance, and would like to move it forward.

Mr. Vinduska came forward and stated that he was a member of the subcommittee that was referenced throughout the discussion and stated the county is in trouble because the county had a bad planning director, the meeting was rushed, and there were issues that Mr. Dowd brought up, and Mr. Vinduska agreed with most of the attorneys points about the investments made by stakeholders, but the county was in trouble because of bad meetings and people that were hand selected on that committee that were against good planning.

Mr. Ken Slauser a stake holder who owns two lots in the Highway Corridor, since 1984 and he sold Duane Dowd three yellow lots, and they are the only ones on that side of the street that were yellow. Mr. Ken Slauser stated when Mr. Dowd moved in, nothing was in yellow, it was in red like the other landowners. Mr. Slauser stated he has a construction company there, and it used to be

zoned industrial and Mr. Slauser cannot afford to put up a regency style building for a construction company which is why he purchased the property.

Mr. Dowd clarified that he did not come and paint them yellow that he owned it when it changed they were not platted, they were all tax lots. They were yellow when he purchased them.

Ms. Kim Stewer came forward and stated that she is an unbiased citizen that does not own any land there and is not paid by anyone to be at the meeting. She would like to see a nice corridor in Sarpy County. She stated she understands the landowners need to be considered, but she thinks that is more short term than the future of the county. She mentioned that she attended one of the meetings and she stated, in her opinion, it was a very biased group of stakeholders.

Public Hearing Closed at 8:36 p.m.

Motion

- *Bliss moved, seconded by Krebs to recommend approval of the amendments as outlined by the applicant on page D5 of the agenda. Ballot: Ayes – Bliss. Nays – Gonzalez, Gross, Krebs, Wees, Whitfield. Abstain – Torczon. Absent – Dunbar, Fenster, Marquardt, and Wear. **Motion Failed***

Ms. Horner stated this item will move forward to the County Board meeting on December 9, 2008.

Ms. O’Keefe stated a motion to approve was made and it failed. Ms. O’Keefe recommended to supplement the failed motion to approve, with a motion to deny, so the action of the Planning Commission would be clear for the County Board.

- *Whitfield moved seconded by Gonzalez to recommend denial of the application and recommend that Rebecca Horner move forward with the committee to discuss amendments with the stakeholders in the Highway Corridor Overlay District . Ayes –Gonzalez, Gross, Krebs, Wees, Whitfield . Nays - Bliss . Abstain. Torczon – Absent - Dunbar, Fenster, Marquardt, and Wear. **Motion Carried***

E. Sarpy County requests a text amendment to the Sarpy County Zoning Regulations Section 32, Highway Corridor Overlay District.

Discussion:

Mr. Torczon continued to abstain from the meeting.

Ms. Horner stated after the last amendments in September it was brought to her attention that there was a clerical omission July 17, 2007. The county attorney researched the background history to determine if she could administratively put the omission back in or if it had to be brought back to the Planning Commission and it was determined that it had to come back to make it official and put it into the record. It was a paragraph that discussed the prohibited uses within the Highway Corridor.

Public Hearing Closed at 8:54 p.m.

Motion

- *Bliss moved, seconded by Krebs to recommend approval of the proposed text amendment as outlined by staff. Ballot: Ayes – Bliss, Gonzalez, Gross, Krebs, Wees, Whitfield.. Nays – none. Abstain – Torczon. Absent – Dunbar, Fenster, Marquardt, and Wear. **Motion carried.***

Mr. Torczon entered the meeting at 8:56

- F. Sarpy County** requests a text amendment to the Sarpy County Zoning Regulations Section 38, Storm Water Management Regulations and Section 6 of the Sarpy County Subdivision Regulations Preliminary Plat and Supplemental Data.

Discussion:

Ms. Horner stated the item was a culmination of work of the Papio-Missouri NRD and the watershed partnership work. On July 25, 2006, Sarpy County adopted the Storm Water Management Regulations to meet the requirements of the Clean Water Act. Since 2006 the watershed partnership has continued to work toward developing a uniform regulation that members of the partnership will use to amend their ordinances and regulations. In the past few months the city of Omaha, Boys Town, and City of Papillion have taken similar amendments to their elected officials and the rest of the partnership members will be taking them in November and December because it is required to have these amendments adopted by January 2009. Ms. Horner stated essentially the amendment establishes the requirements for post storm water management plans. The Plans will provide for water quality control of the first ½ inch of by applying low impact development best management practices, detaining the first ½ inch of rainfall will reduce the amount pollutants which would normally get flushed into streams and rivers. This amendment is not intended as a flood control measure and does little to reduce water quantity during significant rain events. This amendment was prepared as a cooperative effort between the jurisdictional entities of the watershed partnership and it is their intent to adopt very similar amendments in each of their jurisdictions. Ms. Horner stated from a policy perspective these amendments are ones that have been agreed to bring forward to the elected officials.

Mr. Whifield asked for clarification on if this is a cleanup of the existing regulation.

Ms. Horner stated it included the low impact development and the first half inch of rain fall, which was a significant change. Ms. Horner stated the subdivision regulations were also being amended to require storm water management plans with the submittal. There were changes and it was moving forward incrementally to get to a place where the federal government would like the county to be and the partnership as a whole would like to be.

Mr. Jeral Vinduska came forward and stated good storm water management was a very important factor as water is a very important resource for all human and wildlife. Mr. Vinduska stated this was a low set bar. Mr. Vinduska stated it was astounding that the partnership could spend several man hours and thousands of dollars trying to meet Phase II water mandates and come up with trying to control the first half inch. Mr. Vinduska stated he would like to see no net increase regulated.

Amanda Grint, represented the Papio-Missouri NRD, and stated on behalf of the Papillion creek watershed partnership and requested the Commission adopt this regulation amendment because it was an important step in water quality and that was what it was intended for. The Partnership looks for a watershed wide plan for water quality and flood control and this would be a step in the water quality control direction. Ms. Grint stated the first half inch does not do a lot to protect from any flooding, but does go a long way for the water quality and that was what it was intended to meet the criteria that was in the storm water permits.

Public Hearing Closed at 9:16 p.m.

Mr. Whitfield referenced page F11 Section 38.20. Mr. Whitfield stated he agreed with the plan aspect and needing a copy of it, he wanted to be specific as to when the plan would be required and when it would not be required. Mr. Whitfield stated there have been cases when someone wanted to put a house on an acreage and people have paid money to study 80 acres of run-off on a five acre lot. Mr. Whitfield questioned if the requirement was for a larger impact than someone requesting to put a home on the lot.

Ms. Horner stated the regulation read that it was a part of any preliminary plat application, grading permit application, or building permit application that creates 5,000 square feet or more of impervious coverage.

Mr. Whitfield questioned, if a house is built on ten acres with a driveway would it be required.

Mr. Whitfield requested to change the wording of preliminary plat to final plat.

Ms. Horner stated that these are the regulations that the partnership agreed on and it was important to move forward. Ms. Horner stated the change would be the prerogative of the elected officials, but the partnership should move forward together and have similar regulations. Ms. Horner requested to keep the regulation as they are proposed because there are several jurisdictions that have approved them the way they are proposed.

Mr. Wees questioned why they decided on the 5,000 square feet.

Amanda Grint stated the City of Omaha set the significant as that was their definition of significant redevelopment and it is the limit that requires a grading permit or any new development that needs a grading permit would have to comply with this regulation and any redevelopment would have to comply as well.

Mr. Wees questioned the cost of the study.

Ms. Grint stated there was a guidance document that the partnership has come out with along with the City of Omaha. Ms. Grint stated it was a half inch of the total area being developed and the only area that can be excluded was native vegetation, not turf grass, but native vegetation, because that will infiltrate a certain amount. Ms. Grint clarified they are asking for it at the preliminary stage so the developer or engineer do a preliminary calculation to know what sort of volume they are dealing with and plan for that volume while they are laying out their site. Specific documents can come with the construction documents.

Mr. Wees questioned how much that would cost the owner.

Ms. Grint did not have an estimate as to the cost to the owner.

Mr. Torczon stated the issue is mainly a Sarpy County issue. He was involved in MOBA and Omaha does not allow acreages.

Ms. Grint stated they can be amended to fit the County's situation. The intent of the amendment was to infiltrate water to improve water quality. If the acreage had native vegetation and was not all turf grass that part would be exempt and they may not have to do this.

Ms. Horner questioned when Douglas County was taking the amendment to their elected officials.

Ms. Grint stated they would be taken forward in November.

Ms. Horner questioned if the amendments were the same as proposed.

Ms. Grint stated they were the same.

Mr. Whitfield questioned the definition of a post storm water management plan.

Ms. Grint stated the guidance document outlines what goes into the plan.

Mr. Wees asked for Ms. Grint to describe what is required.

Ms. Grint stated that at the time of the preliminary plat it was a plan that identifies the natural resources that are existing in the area and it requires that the volume is calculated and set aside a portion of the plan for the best management practice.

Mr. Wees questioned if it could be a drawing with notes for small pieces of property.

Ms. Grint stated definitely at the preliminary level.

Mr. Whitfield stated it is called a post storm water management plan which means when is a plan showing how they will manage the storm water after completion.

Mr. Wees questioned what would happen if a farmer put agricultural buildings on the property.

Ms. Horner stated that a building permit application may not be required for a certain agricultural buildings.

Mr. Wees restated his question to if the farmer placed a substantial building on the property.

Ms. Horner stated that the same situations will arise in Douglas County and in the Residential Estates portion of Papillion. Those jurisdictions brought forward the same proposed amendments to their elected officials.

Ms. Grint stated the City of Omaha provided a guidance table that shows when it was required and when it was not required. Ms. Grint stated they developed that to be specific for Omaha, so if there were specific concerns Sarpy County needed to address they could provide a guidance table.

Ms. Horner added in the existing regulations in Section 38.21 an exemption from the post construction storm water management plan states that systems designed to accommodate only one single family dwelling unit, duplex, triplex, or quadraplex, provided the single unit was not part of the larger common plan development or sale, are exempt from the requirements in this Regulation to submit a post-construction Storm Water Management Plan.

Mr. Whitfield questioned the definition of systems in Section 38.21.

Ms. Horner stated that amendments can be made and could be taken before the County Board.

Mr. Whitfield inquired about the old one acre rule.

Ms. Horner clarified the rule is still in the regulation.

Mr. Wees asked for Ms. Horner's recommendation.

Ms. Horner stated that they are moving together as a partnership and to deviate from that may damage the partnership and recommended approval of the recommendations as submitted.

- Bliss moved, seconded by Krebs to recommend approval of the amendments to Sarpy County Zoning Regulations Section 38 Storm Water Management Regulations as submitted. Ballot: Ayes – Bliss, Gonzalez, Gross, Krebs, Torczon, Wees. Nays – Whitfield. Abstain – none. Absent – Dunbar, Fenster, Marquardt, and Wear. **Motion carried.**
- Bliss moved, seconded by Krebs to recommend approval of the amendments to the Sarpy County Subdivision Regulations Section 6 Preliminary Plat and Supplemental Data as submitted. Ayes – Bliss, Gonzalez, Gross, Krebs, Torczon, Wees, Whitfield. Nays –None. Abstain – none. Absent – Dunbar, Fenster, Marquardt, and Wear. **Motion carried.**

III. CORRESPONDENCE:

Discussion of 2009 Planning Commission Dates

Michelle Alfaro provided dates for the 2009 Planning Commission Dates for the Commissioners review. The Commission accepted the dates provided.

Discussion of Planning Commission Pay Roll

Ms. Alfaro discussed the Sarpy County Expense and Per Diem Report for the Sarpy County Commissioners and explained the procedure and state statutes regarding the payment for commissioner duties.

Mr. Wees questioned if the requirement was to submit a bill.

Ms. Alfaro stated the requirement would be to submit the pay claim, signed, in order for payment to be processed.

IV. ADJOURNMENT:

Being no further discussion, *Stacen moved, seconded by Gonzalez to adjourn the meeting.* By a unanimous oral vote, Chairman Wees declared the meeting adjourned at 9:36 p.m.

Respectfully Submitted,

Tom Wees, Chairman
Michelle Alfaro, Planning Assistant