



SARPY COUNTY DEPARTMENT OF PLANNING

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REBECCA HORNER, DIRECTOR

PLANNING COMMISSION MEETING MINUTES

June 17, 2009

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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 June 17, 2009, 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, Don Fenster, Gary Stuart, Bernie Marquardt, Jerry Torczon, Alan Wear, Tom Wees, and Doug Whitfield. Absent were: Courtney Dunbar, Greg Gonzalez, and Stacen Gross. Also in attendance were the staff members: Rebecca Horner, Planning Director, Michael Smith, Deputy County Attorney and Michelle Alfaro, Planning Assistant.

Chairman Wees asked for Commissioner reports.

None.

Chairman Wees asked for a motion to approve the agenda.

- *Wear moved, seconded by Bliss to adopt the agenda as stated. Ballot: **Ayes**- Bliss, Fenster, Stuart, Marquardt, Torczon, Wear, Wees, Whitfield. **Nays** – none. **Abstain** – None. Absent Courtney Dunbar, Greg Gonzalez, and Stacen Gross –. **Motion carried.**(8-0)*

Chairman Wees asked for a motion to approve the **May 20, 2009**, minutes.

- *Bliss moved, seconded by Wear, to approve the minutes of the May 20, 2009, meeting as submitted. Ballot: **Ayes**- Bliss, Fenster, Stuart, Marquardt, Torczon, Wear, Wees, Whitfield. **Nays** – none. **Abstain** – None. **Absent** Courtney Dunbar, Greg Gonzalez, and Stacen Gross –. **Motion carried.**(8-0)*

- 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. **John & Shirley McVicker, 19622 Chandler Street, requests a special use permit for an in-home daycare facility located on the following described property to wit: Lot 150, Bellbrook, in Sec. 18, Twp 14N, Rng 11E of the 6th P.M., Sarpy county, Nebraska. (196th & Chandler)**

Discussion:

Ms. Horner stated the applicant was requesting an in home daycare in a residential district for six children. The Comprehensive Plan shows the location as Urban Residential and is occupied as a single family residence in an RS-72 zoning district. The application indicated designated drop-off and pick-up area which will handle at least five vehicles. Staff is proposed to be the residents of the home, Mr. and Mrs. McVicker and are the only staff proposed by the applicant. There is an outdoor play area at the property as well as a park in the subdivision within walking distance.

Ms. Horner stated she attempted to contact the State of Nebraska Health Department to confirm issuance of the license, but her attempts were unsuccessful. Ms. Horner recommended approval with the contingency that the Planning Department receive verification of the license prior to submittal to the County Board due to conformance with the Comprehensive Plan and the Zoning Regulations of Sarpy County.

Ms. Bliss questioned if Rebecca was able to contact the State of Nebraska Health Department regarding the license.

Ms. Horner stated she did not receive a returned phone call from the Health Department.

Public Hearing opened at 7:06 P.M.

Mr. & Mrs. McVicker came forward and stated they filed the paperwork for the license at the end of March 2009 but have not received a response from the State Department of Health.

Mr. Fenster questioned if the Department of Health would inspect the premises.

Mrs. McVicker stated they will inspect the premises but they have not completed the inspection.

Mr. Stuart questioned if the State of Nebraska required them to have a fenced in back yard.

Mrs. McVicker stated she had inquired about the fence and was told it was not required.

Mr. Stuart questioned if Mr. and Mrs. McVicker planned on taking the children to the playground.

Mrs. McVicker answered yes the park would be less than one block away.

Mr. Stuart questioned if they would have to walk through neighboring residence's yards.

Mrs. McVicker answered no they would walk around.

Mr. Wear questioned if there was an expiration on the special use permit.

Ms. Horner stated there was not an expiration date on the special use permit.

Public Hearing closed at 7:14 P.M.

- *Fenster* moved, seconded by *Torczon* to approve the request for a special use permit for an in home daycare as it conforms with the zoning regulations and is consistent with the comprehensive plan of Sarpy County. **Ayes-** Bliss, Fenster, Stuart, Marquardt, Torczon, Wear, Wees, Whitfield. **Nays – none. Abstain – None. Absent** Courtney Dunbar, Greg Gonzalez, and Stacen Gross –. **Motion carried.** (8-0)

B. Proposed Amendments to the Sarpy County Zoning Regulations to add regulations for Wind Energy Systems.

Discussion:

Ms. Horner stated a draft regulation was prepared by Olsson Associates. The Planning Commissioners were supplied with a red line version which included comments from the Planning Director and the County Attorney’s office.

Ms. Horner stated she had additional comments to add as she spoke with a representative from OPPD after the red line version was prepared.

Nick Bowden and Nathan Preheim came forward to discuss the draft wind regulation.

Ms. Horner stated she had a conversation with Commissioner Richards who is a representative of O.P.P.D. and had several comments related to the preamble and would like to amend it to indicate purpose and intent would not be legislative but instead would be a design guideline or zoning requirements. Ms. Horner stated Mr. Richards would like to see the second paragraph amended to state that Sarpy County finds interest in installing renewable and non-polluting energy resources and strike the remaining verbiage in the paragraph.

Ms. Horner stated Mr. Richards generally stated he was not certain whether we should address medium and large facilities with this regulation and instead focus on small wind regulations as there will not likely be a demand for the large towers and the intent was to address small wind systems and address the medium and large scale and address it at a later time which will require more extensive review of state and federal requirements.

Ms. Horner briefly discussed net metering bill LB246 of 2009.

Public Hearing opened at 8:04 P.M.

John Krepp came forward and discussed net metering.

Gale Faltin came forward and discussed her concerns and provided information regarding small wind systems.

Ken Neher came forward and discussed his reasons for wanting a small wind system.

Public Hearing closed at 8:22 P.M.

- *Fenster* moved, seconded by *Bliss* to table the draft regulation to July 15, 2009 **Ayes-** Bliss, Fenster, Stuart, Marquardt, Torczon, Wear, Wees, Whitfield. **Nays – none. Abstain – None. Absent** Courtney Dunbar, Greg Gonzalez, and Stacen Gross –. **Motion carried.** (8-0)

C. Tom Heimes, 21162 Riha Road, requests a special use permit for a wind energy system for residential use located on the following described property to wit: Lot 6, Meadow Oaks South in Sec. 10, Twp 12N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (Highway 31 & Riha Road)

Discussion:

Ms. Horner stated this was a request in an AGD (Agricultural Development) district for a 50 foot tower with a 20kw generator on a 10 acre lot. The Comprehensive Plan shows the area as conservation residential with an existing acreage. The proposed setback was from the closest property line which was the east property line at 80 feet. Ms. Horner stated there are existing tree masses. The applicant indicated the tower would be for residential electrical use. O.P.P.D. provided comments which stated there are existing underground wires in the area and an interconnection agreement should be signed prior to scheduling the item to the County Board. Staff recommended that a development agreement be signed by the applicant which would detail the removal and decommissioning of the system. Ms. Horner stated comments were received from US Fish and Wildlife and would not feel comfortable recommending approval with the US Fish and Wildlife recommending denial.

Public Hearing opened at 9:03 P.M.

Gale Faltin came forward and stated she is a neighbor to the applicant. The Meadow Oaks covenants do not allow for wind turbines to be built and would require a unanimous vote to add it into the covenants and provided additional information regarding the death of birds and bats with the wind turbines.

Public Hearing closed at 9:09 P.M.

- *Bliss moved, seconded by Stuart to table the special use permit to July 15, 2009, when further research has been completed concerning the wind energy regulations. Ayes- Bliss, Fenster, Stuart, Marquardt, Torczon, and Wees,. Nays – Wear and Whitfield. Abstain – None. Absent Courtney Dunbar, Greg Gonzalez, and Stacen Gross –. Motion carried. (6-2)*

D. Ray Heimes, 21174 Riha Road, requests a special use permit for a wind energy system for residential use located on the following described property to wit: Lot 7 & 8B, Meadow Oaks South in Sec. 10, Twp 12N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (Highway 31 & Riha Road)

Discussion:

Ms. Horner stated adjacent to parcel just discussed and has the same issues as the application discussed previously.

Public Hearing opened at 9:15 P.M.

Public Hearing closed at 9:15 P.M.

- *Bliss moved, seconded by Marquardt to table the special use permit to July 15, 2009, when further research has been completed concerning the wind energy regulations. Ayes- Bliss, Fenster, Stuart, Marquardt, Torczon, and Wees. Nays – Wear and Whitfield. Abstain – None. Absent Courtney Dunbar, Greg Gonzalez, and Stacen Gross –. Motion carried. (6-2)*

E. Heimes Corp, 9144 S 147th Street, requests a special use permit for a wind energy system for commercial use located on the following described property to wit: Lot 2, Lakeview South #7 Replat 2 in Sec. 23 Twp 14N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (147th & Meadows Blvd)

Discussion:

Ms. Horner stated the application was submitted with incorrect information with an improperly completed application form and informed the Commission that the item should be withdrawn.

F. Ken Neher, 22302 Centennial Road, requests a special use permit for a wind energy system for residential use located on the following described property to wit: Tax Lots 2C & 2F in Sec. 23, Twp 14N, Rng 10E of the 6th P.M., Sarpy County, Nebraska.

Discussion:

Ms. Horner stated the property is AG (Agricultural) on a 30 acre lot and the tower would be 30 feet tall and a 2.4 kw system. The Comprehensive Plan shows the area of low environmental factors and an acreage residence is currently on the property. The system is proposed to be set back from the closest property line, which was the east line, and will be 120 feet, which is greater than 1.5 times the height of the tower. There are tree masses on the property and the applicant indicated they wanted to offset electrical costs. OPPD indicated there are existing overhead power lines in the area and if interconnection is proposed an agreement with OPPD should be signed prior to submittal to County Board. Ms. Horner received comments from the City of Gretna indicating the applicant met the requirements for their small wind energy regulations. Ms. Horner suggested if the item moves forward an agreement be signed to address decommissioning and potentially liability insurance.

Ken Neher, the applicant came forward to answer questions.

Mr. Wear questioned the liability insurance.

Ms. Horner stated she was discussing the liability insurance with the County Attorney's office.

Public Hearing opened at 9:25 P.M.

Public Hearing closed at 9:25 P.M.

- *Fenster moved, seconded by Whitfield to approve the special use permit with the contingencies as outlined in the staff recommendation including the decommissioning agreement. **Ayes-** Bliss, Fenster, Stuart, Marquardt, Torczon, Wear, Whitfield and Wees. **Nays –None** **Abstain – None.** **Absent** Courtney Dunbar, Greg Gonzalez, and Stacen Gross –. **Motion carried. (8-0)***

G. Discussion: Architectural Review Committee

It was discussed to request a vote on the Architectural Review Committee on July 15, 2009, which will recommend the Planning Director to ask the County Board about removal of certain verbiage within the regulations.

III. CORRESPONDENCE: The following items were briefly discussed to provide updates to the Planning Commissioners.

IV. **ADJOURNMENT:** Being no further discussion, *Bliss moved, seconded by Wear to adjourn the meeting.* By a unanimous oral vote, Chairman Wees declared the meeting adjourned at 9:41 p.m.

Respectfully Submitted,

Tom Wees, Chairman
Michelle Alfaro, Planning Assistant