



SARPY COUNTY DEPARTMENT OF PLANNING

1210 GOLDEN GATE DRIVE, PAPILLION, NE 68046
PHONE: (402) 593-1555 FAX: (402) 593-1558
REBECCA HORNER, DIRECTOR

PLANNING COMMISSION MEETING MINUTES

January 20, 2010

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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 January 20, 2010, in the County Board Room at the Sarpy County Courthouse, Papillion, Nebraska. Vice Chairman Whitfield called the meeting to order at 7:02 p.m. with the following members present: Susan Bliss, Courtney Dunbar, Donald Fenster, Dennis Vanek, Pat Lichter, Gary Stuart, John Thompson, Jerry Torczon, Alan Wear, Wayne Labart and Doug Whitfield. Absent were: None. Also in attendance were the staff members: Rebecca Horner, Planning Director, Nicole O'Keefe, Deputy County Attorney and Michelle Alfaro, Planning Assistant.

Vice Chairman Whitfield gave notice of the Open Meeting Law.

Vice Chairman Whitfield asked for Commissioner reports.

Welcome new commissioners.

Vice Chairman Whitfield asked for a motion to approve the agenda.

- *Wear moved, seconded by Fenster to approve the agenda as submitted. Ballot: **Ayes:** Bliss, Dunbar, Fenster, Vanek, Lichter, Stuart, Thompson, Torczon, Wear, Labart and Whitfield. **Nays:** None. **Abstain:** None. **Absent:** None. **Motion carried.**(11-0)*

Vice Chairman Whitfield asked for a motion to approve the **December 16, 2009**, minutes.

- *Bliss moved, seconded by Wear, to approve the minutes of the December 16, 2009, meeting as submitted. Ballot: **Ayes:** Bliss, Fenster, Vanek, Lichter, Stuart, Torczon, Wear and Whitfield. **Nays:** None. **Abstain:** Dunbar, Thompson and Labart. **Absent:** None. **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.

Whitfield and Labart announced conflict of interest and will not be participating in this agenda item.

II. REGULAR AGENDA ITEMS: Public Hearing and Recommendation – Special Use Permit, Preliminary & Final Plat

A. CENTURY DEVELOPMENT, 1505 North 203rd Street, Omaha, requests a special use permit, preliminary plat, final plat, and flood plain development permit for a commercial recreational area to be known as Leisure Village, on a property located in the E ½ lying south of La Platte Road including Tax Lots 6A, 6B2 & 6C1 in section 29, T13N, R13E and located in the W ¼ lying south of La Platte Road including part of Government Lot 2 in section 28, T13N, R13E all in the 6th P.M. Sarpy County, Nebraska

Discussion:

Mr. Lange, applicant's attorney, came forward and stated the request was to approve a Special Use Permit, Preliminary Plat, Final Plat and Flood Plain Development Permit for 192 Recreational PP and FP and SUP and FPDP for 192 Recreational Vehicle pad sites and accessory uses located on 38th Street and Paradise Road located just south of La Platte Road. Mr. Lange discussed Mr. Krejci's previous developments and supplied visuals of past lake developments that were similar to the Leisure Village request. Mr. Lange discussed the Leisure Village vision and site plan for the proposed development. Mr. Lange stated the recommendation of the planning department was acceptable to the developer. Mr. Lange stated there would be a certified manager on site at all times. The property would be fenced and gated to provide security. Mr. Lange discussed the tentative covenants of the park.

Commissioner Stuart questioned if security would be all year or just during the season.

Mr. Lange confirmed that yes someone would be there full time all year.

Commissioner Lichter questioned where residence of full time security guard would be.

Mr. Lange stated they were in the preliminary stage, but would most likely be an RV or a permanent facility in the area where the gated entrance would be right outside the flood plain portion of the land.

Commissioner Dunbar stated her concerns regarding covenant loop holes, which could cause potential issues over time from a business perspective.

Mr. Lange stated the Special Use Permit goes with the property and by taking the covenants and incorporating them into the Special Use Permit they are enforceable as part of the Special Use Permit and if not complied with will lose the permit to operate the RV park.

Commissioner Dunbar questioned if there was adequate turning capability with the enormous vehicles.

Mr. Lange stated the pad sites are 40 x 100 and the large RV's are what they would prefer at the park.

Commissioner Fenster questioned enforcement and stated it was up to the Planning department to enforce it.

Ms. Horner stated that was true if the covenants were attached to the special use permit.

Commissioner Fenster questioned if it was on a complaint basis that Planning staff would inspect the property.

Ms. Horner stated that was correct unless staff saw it while doing other inspections in the area.

Commissioner Fenster asked for definition of Class A and Class C motor homes.

Mr. Thompson came forward and stated Class A is a big diesel million dollar, Class C is the cab over smaller in size ranging from 28 to 32 foot, where class A is 38 to 45 foot.

Commissioner Fenster questioned would decide, in the case of when an RV is over ten years of age, if it was in excellent condition.

Mr. Thompson stated that they would be ten years or younger or excellent unit declared by a preliminary checklist system through onsite care taker that is there year round.

Commissioner Fenster questioned the waste and estimated the gallons of water usage per day per unit.

Mr. Thompson explained the EPA standard for calculating the estimated water usage.

Mr. Thompson explained concept of holding tanks and explained information from the Department of Environmental Quality.

Commissioner Fenster questioned if in flood plain and what would happen if a flood occurred.

Mr. Thompson stated yes it is in a flood plain and explained the various requirements of the Department of Environmental Quality that are set regarding a sanitary sewer system. Mr. Thompson discussed various waste water systems.

Commissioner Bliss questioned if they would decide on a system prior to going to County Board.

Mr. Thompson stated that the intent was to get the use approved first as the design, the time and financial impact involved on the chance that the use not be approved was extensive, but if the use is approved they would press forward with a formal design.

Commissioner Fenster stated to Ms. Horner that he felt he was being asked to approve something that they aren't sure what it will be.

Ms. Horner stated the applicant has provided conceptual designs and ideas for a variety of these including the septic and have also proposed a couple different options for covenants, which are typically not enforced by the Planning Department. The contingencies state that the different agencies that have commented, such as Metropolitan Utilities District, Nebraska Department of Environmental Quality and Nebraska Department of Health & Human Services need to be satisfied prior to going to County Board. They will need a decent conceptual design but not a fully engineered plan and design concept but will provide enough to satisfy those comments. The concept to attach the covenants was discussed at the neighborhood meeting where it was discussed if long term enforcement was an issue an option would be to attach the covenants to the Special Use Permit. The proposed covenants were received after the neighborhood meeting and there are some that are too vague and would not be recommended in that way to the County Board. Staff would request the vague terminology be removed and be very specific prior to going to county board.

Commissioner Fenster referenced page six of the covenants and questioned item number two (2).

Ms. Horner stated if the covenants were attached to the Special Use Permit it would be very specifically worded in a resolution by working with the County Attorney's office.

Commissioner Dunbar questioned the plan would constitute as exclusionary practice. Ms. Dunbar stated the pad sites are permanent but the scope could change each year.

The use is a temporary use but the SUP is not proposed with an expiration date.

Commissioner Vanek spoke about the main entrance and questioned where the second entrance and how it would be monitored.

Mr. Thompson stated it and would be secured through a gating system and the intent would be a fire rescue access point.

Commissioner Bliss stated the community meeting and asked if any communication took place since then.

Commissioner Lange stated he had general communication with a couple residents after the January 6th meeting to get feedback regarding the covenants.

Commissioner Torczon questioned if entire site will be fenced, and the second entrance gated and questioned the type of fencing material that will be used.

Mr. Thompson stated the entire site will be fenced, the secondary entrance will be gated and the fencing material will most likely be some kind of woven wire or six foot fence.

Commissioner Bliss clarified the applicant would work with Planning Department on outlined issues in the staff report.

Mr. Lange stated yes.

Commissioner Thompson questioned if there should be a time limit placed upon the Special Use Permit to police the interior of the park.

Ms. Horner stated that is an option the Planning Commission can use on this request as well.

Commissioner Thompson questioned the roads going around the lake.

Mr. Thompson pointed out the trail system and roadways along the lake.

Commissioner Thompson questioned road type.

Mr. Thompson spoke of the geo-textiles to get a firm base, recycled pavement and asphalt chips and when gets hot helps bind together and makes a very firm surface. Mr. Thompson discussed various road surface options.

Commissioner Thompson questioned the All Terrain Vehicle (ATV) area and discussed the noise that would be produced by the ATV's.

Mr. Thompson discussed the ATV area and stated it was as far away from the residential areas as possible.

Commissioner Stuart questioned the 10 year portion of the covenants and if a RV was permitted in the park at seven (7) years old, once it surpasses the ten (10) year mark would it be restricted from the park.

Mr. Lange came forward and stated the age has a factor and anything that was in would be excluded unless in excellent shape and the manager approved it. He stated age has a factor and will set a standard of expectation as far as the condition of the vehicle is concerned.

Commissioner Stuart questioned if a second party, or entity, not affiliated with park or the manager would assist with enforcing the covenants.

Mr. Lichter stated there would not be another entity but those are things that could be addressed.

Commissioner Lichter questioned the width of the road and the turning radius along the main road and questioned how the large RV's will get in and out.

Mr. Thompson explained that it is a conceptual plan and the angle and degree of the roadway should allow for proper turn around.

Commissioner Wear opened the public hearing.

Public Hearing opened at 8:06 P.M.

Commissioner Wear asked for proponents to come forward.

Seeing none, Commissioner wear asked for opponents to come forward.

Mr. Chip Frazier came forward as spokesman for the Hanson, Chris and Betty Lake Community. Mr. Frazier asked opponents to stand and noted that a majority of the audience were in opposition of the proposed concepts. Mr. Frazier stated definition of the Class A and Class C RV's. Mr. Frazier handed out a packet to the Commissioners and discussed various items. Mr. Frazier showed pictures of residences in the area and discussed the lakeside communities. Mr. Frazier discussed the comprehensive plan, specifically the Bellevue Future Growth area, and stated comments of discussion with the Bellevue Planning Director. Mr. Frazier discussed adjacency issues, securities, transient elements, property values, road improvements, dust control, and the Linoma Beach story and enforcement of covenants and rules.

Mr. Frazier stated the staff report indicated pads will be tucked in along tree lines and lake boundaries to preserve natural landscape that is today. Mr. Frazier showed pictures of the existing tree line and stated that immediately behind the trees was a berm which was a cast off of a sand dredging operation that was there at one time. Mr. Frazier addressed concerns regarding accessing the dyke.

Mr. Frazier discussed the traffic impacts, the parking diagrammed concept for parking arrangements, waste collections tanks, inlet piping, illegal dumping, winterizing the RV's and the effect on the environmental impacts.

Mr. Frazier questioned if an elevation certificate would be required for the care takers residence.

Mr. Frazier addressed the dredging of the lakes and the 404 permit requirements from the Corp of Engineers.

Mr. Frazier discussed the risk to Sarpy County, questioned the tax revenue, security services and emergency response.

Mr. Schueber came forward and discussed the Environmental Protection Act which governs environmental issues regarding this development including air contaminants such as dust, smoke, hazardous materials and air pollution.

Ms. Cheryl Miller came forward and stated lives on end of the dyke and spoke of instances where the Sherriff's office had to be called for people accessing the dyke. Ms. Miller stated concerns that if more people were in the area more issues would arise with people accessing the dyke.

Ms. Rhonda Gearhardt came forward and stated her main concern was traffic and aesthetics of the RV park effecting land she had purchased.

Mr. Chuck Lambart came forward, and questioned the intent of the area where fill will be placed and what the intended use of the area would be. Mr. Lambart questioned if that would then allow for a building permit and could eventually allow for a gas station in the future. Mr. Lambart questioned who had authority to enforce covenants other than the property owner.

Mr. Bill Riley came forward and stated traffic was a concern. Mr. Riley is a Certified Grade IV Wastewater Treatment Operator for the State of Nebraska and stated he was concerned with wastewater.

Mr. Frank Franco, came forward and stated was opposed to the development and was concerned with what would move in if the property were sold in the future.

Ms. Sharon Seizel came forward and stated concerns about the covenants and requested if approved make the covenants concrete and specific.

Mr. Brad Heath came forward and requested it be noted that several people were in attendance regarding the Leisure Village development proposal. Mr. Heath stated concerns with the view concerning the RV park and requested that trees be mature instead of saplings. Mr. Heath also requested a time limit be placed upon the Special Use Permit requiring the applicant to come before the board every three years. Mr. Heath recommended if the property was sold the permit automatically go back to the Planning Commission.

Ms. Sherry Snook, and questioned who would be liable if someone from RV park were hurt who would be responsible.

Mr. John Knapp stated he had concerns regarding the sewage treatment. He was also opposed to approving the Preliminary Plat and Final Plat and also stated his concerns regarding development in the flood plain.

Ms. Anne Pueter and stated her concerns were garbage and refuse. Ms. Pueter questioned how the RV's would be vacated if there was a flood. Ms. Pueter questioned how one caretaker could monitor 192 RV's effectively.

Public Hearing closed at 8:55 P.M.

Ms. Horner addressed a question regarding fill from one of the opponents. Ms. Horner stated the flood plain regulations allow them to fill up to 25%, those areas would then be out of the flood plain, depending upon how that would change the map, they would most likely need a flood plain development permit and raise any living spaces above the base flood elevation. There is potential that some non-living areas may be below the base flood elevation. They would be required to obtain a flood plain development permit for any construction in this general area and they could potentially add fill to raise the areas above the base flood elevation, which would bring it into conformance with the regulations. They would not be able to obtain a flood plain development permit with any living spaces below the base flood elevation. There are a number of non-conforming structures in the area already many of the people who spoke have come to the Planning Department for a flood plain development permits in the same manner that this property would be required.

Ms. Horner addressed a question regarding if fill was brought in could the use be commercial and stated that would not be in conformance with the comprehensive plan as currently written. Ms. Horner addressed concerns regarding the covenants and stated that would be at the determination of the Planning Board and if the covenants are attached to the Special Use Permit, the enforcement would be by Sarpy County. If there are issues with noise etc. that would be handled by the Sarpy County Sheriff. If the covenants are not attached that would be handled by private enforcement.

Ms. O'Keefe came forward to address the question regarding liability and stated it would depend upon the facts and circumstances surrounding the accident. There are many factors to take into account.

Mr. Lange came forward and addressed the issues and concerns of the neighbors regarding traffic, density, environment, beauty and transient and stated the type of use should be passive, low density and does not have a high impact on the environment and addresses the wastewater. The particular project addresses many of the concerns addressed by the neighbors. Mr. Lange stated they are working with the property and incorporating the project into the property to make sure property maintains natural area that is environmentally and recreationally friendly. Mr. Lange discussed density and stated there are 192 units, seasonal, one unit per 1.2 acres, which is very low density development. Mr. Lange addressed the comments regarding transients and provided a demographic report to the Commissioners. Mr. Lange addressed the concern regarding ATV's and stated it hadn't been determined if they would or would not have ATV's, but if they did it would only be allowed within certain areas.

Mr. Thompson came forward and addressed dust and trees, Mr. Thompson stated the proposed recycled asphalt and the possibility of some additives would assist with minimizing dust. Mr. Thompson stated the intention is to provide a fairly mature tree.

Commissioner Thompson questioned if there is considerable flooding during the regular season. He questioned who owned the dykes.

Mr. Frazier stated the SID owns the dyke.

Commissioner Thompson questioned traffic impact.

Mr. Tom Lynam came forward and stated the intersections play a big role in how much a roadway can handle in regard to capacity. Mr. Lynam stated a two-way roadway can easily handle 700 cars per day. Mr. Lynam stated the traffic analysis would use a different trip generation together with when the RV's are coming and going and peak times and would need to be looked at. An additional access point could be upgraded and opened up too handle additional vehicle car access and possibly lessen demand on easterly access point. Mr. Lynam stated 36th Street would have the highest traffic impact and would want to be further away from 36th Street for access.

Mr. Fenster stated Mr. Krejci is an excellent developer, but he felt he was not able to support the proposal as there are too many unknowns such as the definition of a Class A and Class C motor home, what is considered "good condition" which was very subjective and not well defined, sewer system, water system, who would be responsible for enforcement, fence, what would the road between Chris Lake and development be, will ATV's be allowed and where would be allowed, and covenants aren't complete.

Ms. Bliss seconded Don's opinion.

Mr. Torczon questioned if the City of Papillion responded as he would like to know if any issues have arisen from the Walnut Creek area.

Ms. Horner stated no comments were received from Papillion or other cities that received the review packet.

Mr. Torczon would like to know if Papillion had any problems reported from the Walnut Creek area.

Ms. Horner said she would request the information from the City of Papillion.

Mr. Fenster requested how much time the applicant would need to provide additional information on the project.

Mr. Lange came forward and stated 60 days would be enough time to work on providing additional information.

- Fenster moved, seconded by Torczon, to table agenda item A as advertised to the March 17, 2010, Planning Commission meeting. **Ayes:** Bliss, Dunbar, Fenster, Vanek, Lichter, Stuart, Thompson, Torczon and Wear. **Nays:** None. **Abstain:** None. **Absent:** Labart and Whitfield. **Motion carried.**(9-0)

Mr. Whitfield and Mr. Labart came back into the meeting.

II. REGULAR AGENDA ITEMS: Preservation and Conservation Easement - Patterson

B. Ronald & Carol Patterson, 22202 Armbrust Lane request approval of a Conservation & Preservation Easement located on Tax Lot 4 in the NE ¼ of Section 2, Township 12N, Range 10E and a tract of land in the S ½ of the S ½ of the SE ¼ in Section 35, Township 13N, Range 10E and a tract of land located in the SE ¼ of the SE ¼ of Section 35, Township 13N, Range 10E all located in the 6th P.M. Sarpy County, Nebraska.

Discussion:

Ms. Horner stated Dave Sands was the applicant and the conservation easement was reviewed and approved by the County Attorney's office and was in conformance with the Comprehensive Plan of Sarpy County.

Mr. Patterson came forward and stated the history of his property and why he would like to preserve and conserve the area.

Public Hearing opened at 9:44 P.M.

None came forward.

Public Hearing closed at 9:44 P.M.

Discussion:

- Bliss moved, seconded by Dunbar to approve the Conservation and Preservation Easement for Ronald F. Patterson and Carol J. Patterson as it conforms with the Comprehensive Plan of Sarpy County. **Ballot:** **Ayes:** Bliss, Dunbar, Fenster, Vanek, Lichter, Stuart, Thompson, Torczon, Wear, Labart and Whitfield. **Nays:** None. **Abstain:** None. **Absent:** None. **Motion carried.**(11-0)

REGULAR AGENDA ITEMS: Special Use Permit

C. Jim Mowinkel, 18806 Capehart Road requests an amendment to the special use permit for sales and rental of travel and vacation trailers on Lot 1 Mintken's Addition located in Section 5, Township 13N, Range 11E of the 6th P.M. Sarpy County, Nebraska.

Discussion:

Ms. Horner stated the request was to approve an amendment to an existing special use permit for sales and rental of travel and vacation trailers. The existing special permit was approved in February 2008, the applicant would like to remove two existing buildings and replace with one new building.

Mr. Jim Mowinkle came forward and stated taking down two buildings and would build a new building so things are not being stored outside and confirmed the business plan has not changed.

Public Hearing opened at 9:46 P.M.

Mr. Knapp came forward and questioned if the Highway Overlay was applicable and would they have to meet the overlay requirements.

Ms. Horner stated the property was within the overlay. The overlay, as adopted by Count Board, exempts the property because it was platted prior to a certain day. This property would be exempt from the Highway Corridor Overlay regulations.

Mr. Knapp stated he felt it should have to comply.

Mr. Wear questioned what should go there as an alternative.

Ms. Horner stated she held a pre-application with the property owner and discussed the Highway Corridor Overlay with him. Ms. Horner stated she explained to the applicant that he was technically exempt but that if he wanted to comply he could. Ms. Horner stated the applicant submitted a plan that does not meet the highway corridor regulations because a pre-manufactured metal building would be prohibited. In order to bring the building into compliance the building would need some architectural detailing which could slightly increase the cost.

Ms. Dunbar stated concerns regarding non-conforming regulations.

Ms. Horner reiterated what the County Board adopted regarding the Highway Corridor Overlay Distrcit.

Mr. Wear questioned if Ms. Horner was recommending approval.

Ms. Horner stated her recommendation was approval.

Mr. Fenster questioned if the applicant would be willing to comply with the Highway Corridor Overlay standards.

The applicant stated the cost was a concern.

Ms. Dunbar stated it is not fair to adjacent property owners and stated her concerns with tying the exemptions to the Plat.

Mr. Whitfield questioned if the Planning Commission can put a requirement on applicant that is above the regulation passed by the County Commissioners.

Ms. O’Keefe stated that it should be tied to a reason and she would want to research the legal ramifications prior to going to the County Board.

Mr. Patterson came forward and questioned the if the number of trailers would increase and would it comply with zoning.

Mr. Wear questioned if the Planning Department had received any complaints.

Ms. Horner stated no complaints and been received and she did become aware of a potential violation regarding a sign and that she would be required to investigate that complaint.

Mr. Jeral Vinduska came forward and stated he was on sub-committee that formed the Highway Corridor.

Public Hearing closed at 10:05 P.M.

Discussion:

Mr. Mowinkle questioned if he was within his rights.

Ms. O’Keefe stated the recommendation be tied to a reason if they are going to require above and beyond the regulation and she would investigate the legal ramifications prior to going to County Board.

- *Wear moved, seconded by Dunbar to approve the amendment to the special use permit for James Mowinkel as it conforms to the Comprehensive Plan and Zoning regulations of Sarpy County. Ballot: Ayes: Bliss, Dunbar, Fenster, Vanek, Lichter, Stuart, Thompson, Torczon, Wear, Labart and Whitfield. Nays: None. Abstain: None. Absent: None. Motion carried.(11-0)*

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

Ms. Horner informed Commissioners that the Planning Department ordered a periodical for the Commissioners.

Ms. Dunbar questioned if were APA members.

Ms. Horner stated due to budgetary issues the Commissioners are not yet APA members.

Ms. Horner stated within the next 8-10 weeks a training session will be held.

Mr. Fenster questioned when the NPZA Conference was.

Ms. Horner stated due to budgetary reasons limitation on participation to the NPZA was requested.

Ms. Bliss questioned if someone from our department would attend the NPZA conference.

IV. **ADJOURNMENT:** Being no further discussion, *Wear moved, seconded by Stuart to adjourn the meeting.* By a unanimous oral vote, Chairman Wees declared the meeting adjourned at 10:33 p.m.

Respectfully Submitted,

Doug Whitfield, Vice Chairman
Michelle Alfaro, Planning Assistant