

**DOUGLAS COUNTY
PLANNING COMMISSION MEETING
3015 MENKE CIRCLE
OMAHA, NEBRASKA 68134
September 8, 2010 6:00 P.M.**

The meeting was called to order by Chair Lanoha at 6:00 p.m. with roll call vote.

Members Present: Bob Bruhn, Anne Houlihan, Michael Gerdes, Dave Lanoha, Murray McArdle, and Milo Vacanti.

Members Absent: Bob Boozer, Luke Janke, and Bill Julien.

Other County Officials and Staff Present: Barb Frohlich, Douglas County Environmental Services, and Bernie Monbouquette, Deputy County Attorney.

Before the meeting started, Chair Lanoha made the following statement:

“This meeting is conducted in accordance with the Open Meetings Law of the State of Nebraska and the provisions of the law are posted in the back of the room.”

Motion by Commissioner Houlihan, seconded by Commissioner McArdle to approve June 9, 2010 minutes.

Voting Yes: Bruhn, Houlihan, McArdle, and Vacanti.

Voting No. None.

Abstain: Gerdes and Lanoha.

APPLICATION PZ-3-10

REQUEST: Preliminary and Final Plat, Ackerlund Acres Subdivision, Lot 1-3.67 acres and Outlot A (additional 312th Street right-of-way), RR-2 zoning.

LEGAL: Part of the NW ¼ of the SW ¼ of Section 3, Township 16, Range 9E of the 6th P.M.

LOCATION: 13949 North 312th Street

APPLICANT: CLW Valley Farms Holdings, LLC, c/o GWR Wealth Management, 14301 FNB Parkway, Suite 115, Omaha, NE 68154

Doug Kellner, Thompson, Dreesen and Dorner, 10836 Old Mill Road, Omaha, NE presented the application representing the applicant and available to answer questions.

Ms. Frohlich commented that she had talked to Cathy Hanus regarding the Comprehensive Plan recommendation that acreages in the floodplain should be 20 acres and considered this to be more if a farmstead split than a subdivision for a new residence.

Chair Lanoha opened the public hearing.

Cathy Hanus, 13808 N. 324th Street, Valley, Ne stated that she lived across the section from the Akerlund property. When we were going through the Comprehensive Plan, I tried to attend the meetings to find out what was going on and one of the things that was brought up that I understood was the area between the rivers, the Elkhorn and the Platte, was supposed to be 20 acre lots. The 20 acre lots were for two reasons. The thought was that the ground because it is all high water table in that area, the ground would not be able to support all of the septic systems. Also if you have flood waters and you get the homes too close together, like a really tight subdivision of some sort, it will create blockage for the water when it does flood. If there is an exception here, I just don't want there to be an exception later because this exception was made so on and so forth. It is a concern I have because I am in the low lying area and if it creates blockage for me, I am going to be under a little more water. I would like to see the area preserved as a nice area where it doesn't become a problem to live there. I would prefer the Planning Commission follow what I understood to be the Comprehensive Plan.

Chair Lanoha closed the public hearing.

Commissioner McArdle asked if that wasn't a legal question. It puts us on the spot as to guess whether this is a legal issue.

Mr. Monbouquette asked what staff recommended. Ms. Frohlich commented that she viewed it as more a farmstead type lot split because it is an existing farmstead. If someone wanted to subdivide off three acres to build a new residence, then that would be considered in a different manner.

Chair Lanoha stated that he didn't see where the Planning Commission would be setting a precedent.

Motion by Chair Lanoha, seconded by Commissioner Gerdes to recommend approval of the application for final and preliminary plat and rezoning of the property from AG to RR-2.

Commissioner Vacanti stated he would like to know the rules before voting. Mr. Monbouquette said he would be glad to look it up but did not have all the rules memorized.

Voting Yes: Gerdes, Houlihan, Lanoha, McArdle, and Bruhn.

Voting No. None.

Abstain: Vacanti.

APPLICATION

G-1-10

REQUEST: Amendment to Douglas County Zoning Regulations

Article 2 Definitions, A. "A"

11. Appurtenant Structure: Structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. (See Section 8.05, K, 4)

12. Attached: Having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway; facade wall extension; or archway.

Article 8.05 FP/FW Flood Plain/Floodway Overlay District. K. Uses Floodfringe (FF) Zoning District, 4. Nonresidential Construction,

a. Appurtenant structures used exclusively for storage of motor vehicles, and storage of other items readily removable in the event of a flood warning may have their lowest floor below one foot above the base flood elevation provided the structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the base flood and provided that no utilities are installed in the structure except elevated or floodproofed electrical fixtures. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use. The appurtenant structure shall be limited to 400 square feet in size. (Appurtenant structure shall mean a structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure).

APPLICANT: Douglas County Environmental Services

Ms. Frohlich presented this application explaining that a situation had occurred for a resident in the floodplain that brought this issue up. A house had been constructed in the floodplain several years ago according to the elevation requirements at the time. Since that time, the floodplain maps have changed and to build an accessory building would require an elevation approximately 4 to 6 feet higher than the residence. While consulting with the State Floodplain Manager, Bill Jones, he suggested that we could add this appurtenant structure language to our floodplain regulations and it would allow somebody to put up a storage structure that wouldn't have to be elevated. The reason that FEMA and the State would approve the change is that the structure would be limited to 400 sq. ft. in size and it also would have to be built such that the flood water could go through it.

Chair Lanoha confirmed that the structure could not be occupied and asked if FEMA and the NRD's were on board with this regulation.

Ms. Frohlich stated she worked with the State Floodplain Manager because the State has to approve our Floodplain Regulations as well as FEMA. If the change is made, it will be sent to the State for their approval and then it would go to FEMA for their

approval. She added that she was not aware of this provision that would allow such a storage structure and believes it makes a lot of sense for the convenience of citizens.

Chair Lanoha opened the public hearing. Chair Lanoha stated he believed this was good alternative for citizens since there were already so many restrictions

Cathy Hanus, 13808 N. 324th Street, Valley, Ne, stated that the only reason she spoke to this application was because she wondered how they determine that things flow through. Is that something that is watched because I am aware of one situation where there was a fellow in another jurisdiction who complained about how he had to have everything open so water would flow through and as soon as the inspector left, he sealed it back up again and it has been years since that has occurred and nobody has ever said anything to him. If there is a reason why we have to have the flow through which it is obvious to me what that reason would be, then somehow there needs to be away of enforcing that otherwise I think it needs to go as high as the regulations say it should go.

Chair Lanoha closed the public hearing.

Chair Lanoha stated he believed this was good alternative for citizens since there were already so many restrictions.

Motion by Commissioner Vacanti, seconded by Commissioner Houlihan to recommend approval of the amendments to the Floodplain Regulations.

Voting Yes: Houlihan, Lanoha, McArdle, Vacanti, Bruhn, and Gerdes.

Voting No. None.

Abstain: None.

APPLICATION

SUP 3-10

REQUEST: Special Use Permit for commercial hunting preserve including operation of a controlled shooting area for shooting upland game, gun dog training and field trials. (A complete list of requested conditions is available at the Douglas County Permits and Inspections.)

LEGAL: Parcel 113840003, Parcel 113840008. Parcel 113840006, Parcel 114010009, and Parcel 1140010008

LOCATION: 9191 North 225th Street

APPLICANT: Scott E. Bruhn Enterprises, Inc. d/b/a Pheasant Haven
P.O. Box 650
Elkhorn, NE 68022

Scott Bruhn, 9191 No. 225th Street, Elkhorn, NE presented this application stating that this was a renewal of the previous conditional use permits for this use. He pointed out that he was no longer using the property that had been leased from his sister-in-law.

Chair Lanoha asked if there had been any complaints. Mr. Bruhn stated he received calls when he stopped using the south property (leased from his sister-in-law) because it

was opened up for hunting. He informed the callers that he was not using that area any longer.

Larry Smith, 21507 Ridgewood Road, Elkhorn, and his wife, Lori Krejci own a parcel in the area and lease it to Mr. Bruhn for hunting purposes and support the application.

Tom Brazer, 8303 North 230th Street, Elkhorn, NE stated his property adjoins what was apparently the property Mr. Bruhn had leased from his sister-in-law. He clarified with Mr. Bruhn that the property adjoining his property was not part of the application. Mr. Bruhn stated that was correct and Mr. Brazer stated he had no problem with the application.

Ms. Frohlich pointed out that a portion of the property on the south is located in the City of Omaha's three mile extraterritorial jurisdiction. She contacted the City of Omaha Planning Department in April of this year in anticipation of this application. The City of Omaha Planning Department deferred consideration of the application to Douglas County. A copy of the final resolution will be forwarded to the City of Omaha for their files.

Ms. Frohlich also pointed out that the 10 acre parcel included in the application has been re-zoned from Agricultural to Rural Residential 2 as a result of the updated Zoning Regulations. It is being included in the application because it is an integral part of the operation of the controlled shooting range. She asked that an additional condition be added to the Special Use Permit to require that the use of the 10 acre parcel and its buildings continue in the same manner and that any changes in the use be cause for revocation of the special use permit. She emphasized this was requested because the controlled shooting range is not a permitted use in RR-2 zoning district and would prevent any other commercial type business to be operated on the 10 acre parcel.

Commissioner McArdle asked for the term of the Special use Permit. Ms. Frohlich stated it would expire in five years.

Motion by Commissioner Vacanti, seconded by Commissioner McArdle to recommend approval of the application with the conditions outlined in the application as well as the additional condition recommended by staff.

Commissioner Vacanti asked Mr. Bruhn if the additional condition was acceptable to him. Mr. Bruhn stated he did not understand the need for it. Ms. Frohlich explained that it was because the 10 acre parcel is zoned RR-2 and that a controlled shooting range is not allowed in RR-2 and to prevent other types of commercial business on the 10 acre parcel.

Voting Yes: Lanoha, McArdle, Vacanti, Bruhn, Gerdes, and Houlihan.

Voting No. None.

Abstain: None.

4. Discussion

Adoption of Wellhead Protection for City of Fremont Wellfield

Ms. Frohlich presented the maps showing the wellfield protection area that the City of Fremont has adopted and the Fremont wellfield protection area that is located in

Douglas County. The ordinance adopted by the City of Fremont was also presented. The City of Fremont is requesting that Douglas County adopt a wellfield protection regulation for the portion of the wellfield protection area located in Douglas County. A proposed regulation was also presented.

Discussion among Commissioners focused on whether or not rules already in place by the Nebraska Department of Environmental Quality provide sufficient protection for the area in Douglas County.

Staff will proceed with further research and present additional information for this wellhead protection request by the City of Fremont at a future Planning Commission meeting.

Stormwater Regulations update.

A consultant is working on the update of the Stormwater Regulations and further information will be provided at a future Planning Commission meeting.

Meeting adjourned at 6:30 p.m.

Minutes approved on February 9, 2011.