

DOUGLAS COUNTY PLANNING COMMISSION

3015 MENKE CIRCLE  
OMAHA, NE 68134

November 9, 2005  
6:00 p.m.

The meeting was called to order by Vice Chair Lanoha with roll call vote.

Members Present: Bob Boozer, Bob Bruhn, Michael Gerdes, Anne Houlihan, Luke Janke, Dave Lanoha, Joe Roberts, and Milo Vacanti.

Chair Hayes arrived at the meeting at 6:05 p.m.

Other County Officials and Staff Present: Barb Frohlich and Kent Holm (Douglas County Environmental Services), Don Nielsen (Engineer's Office), and Bernie Monbouquette (County Attorney Office).

Motion by Commissioner Boozer, seconded by Commissioner Gerdes to approve minutes of the October 12, 2005 meeting

Voting Yes: Boozer, Bruhn, Gerdes, Houlihan, Janke, Lanoha, Roberts, and Vacanti.

Voting No: None

Abstain: None

**APPLICATION      G-9-05 (laid over from August 10, 2005)**

REQUEST: Revoke conditional use permit for sand and gravel operation, David Iske, 24617 W. Center Road, Waterloo, NE 68069 approved by Douglas County Board of Commissioners on November 16, 2004

LEGAL: NE ¼ NW ¼ of Section 33, Township 15 N, Range 10 E of the 6<sup>th</sup> P.M.

LOCATION: 24617 W. Center Road

APPLICANT: Douglas County Planning & Zoning (Environmental Services)

Ms Frohlich stated that she went out and inspected the property last week. Michael Gerdes went out this morning to inspect the property. Ms. Frohlich asked Commissioner Gerdes to comment.

Commissioner Gerdes stated that he believed Mr. Iske had made really good effort over the past couple of months to address cleanup of the property. He recommended re-visiting the issue in April because of Mr. Iske's good faith efforts.

No one from the public spoke for or against the application.

Vice Chair Lanoha closed the public hearing.

Commissioner Gerdes made a motion a layover the issue to the April, 2006 meeting with an inspection to take place before the meeting. Commissioner Boozer seconded the motion.

Voting Yes: Boozer, Bruhn, Gerdes, Hayes, Houlihan, Janke, Lanoha, Roberts, and Vacanti.

Voting No: None.

Abstain: None.

Chair Hayes conducted the remainder of the meeting.

**APPLICATION -9-05 (laid over from October 12, 2005)**

REQUEST: Conditional Use Permit for Wireless Communication Facility

LEGAL: East ½ of Section 4, Township 16 N, Range 9 E. of the 6<sup>th</sup> P.M.

LOCATION: 0.3 mile west of Highway 36 on north side Pawnee Road

APPLICANT: Dan Dunne, 2611 South 117<sup>th</sup> Street, Omaha, NE 68144  
representative for Ackerlund Farms, Inc., 31798 Pawnee Road,  
Valley, NE 68-064

At 6:07 p.m., Commissioner Gerdes declared that his firm was involved in technical investigations on this property and excused himself from the Board.

Sam Mandolfo, 2611 S. 177<sup>th</sup> Street, Omaha, NE 68144, stated that Mr. Dunne was out of town and that he would address the Commission and answer any questions regarding the application. Mr. Mandolfo gave the following brief summary of the proposed cellular tower:

1. AT&T wireless has been in the Omaha area market for approximately five to six years.
2. Cingular purchased AT&T and is now in the process of completing the network begun by AT&T.
3. There are a number of areas with poor cellular reception because of insufficient tower capacity or location of towers.
4. This tower is being placed in an area with poor reception.
5. Cingular is trying to provide good service to their customers and provide them the opportunity to use wireless communications devices within their market area.

Chair Hayes opened the public hearing and stated that comments and questions from Commissioners would take place after the public hearing.

Kathy Hanus, 13808 N. 324<sup>th</sup> Street, made the following comments regarding the application:

1. The proposed location isn't in her back yard, but her front yard.
2. She will be able to see the tower probably from every window in her house including the strobe light.
3. Stated she objects to the location of this tower because it is going to hurt the area because eventually it will be developed.
4. Believes the tower would be better located in an area that is already zoned commercial.
5. The Telecommunications Act of 1996 gives the telecommunications industry the power to place towers but it also clearly says it is a local issue for local people to decide issues of public health, safety, and welfare.
6. Also referenced Nebraska law, Giger vs. City of Omaha that dealt with spot zoning. Believes this is a spot zoning issues
7. Location of the tower is for the benefit of the landowner and Cingular and is not in accordance with the Comprehensive Plan.
8. It will be located in the middle of an agricultural area and be a nuisance.
9. Also expressed concern about local air traffic between Omaha and Fremont and Omaha and Columbus. Stated there is also air traffic from Offutt in this area as well as hot air balloons and gliders.
10. Mr. Dunne told her the towers would be similar to the ones constructed in Valley with multiple antennas.
11. Questioned Mr. Dunne's statement that the tower would have a low amount of wattage with multiple antennas.

Chair Hayes explained to Ms. Hanus that the towers are required to facilitate multiple antennas.

12. Also stated she is concerned about EMS and their cumulative effect.

Chair Hayes asked Mrs. Hanus how far her property is from the proposed tower.

13. Mrs. Hanus stated it is probably between ¼ to ½ mile.
14. Expressed concern that she had not seen any evidence of environmental studies and how it will affect property values.
15. Also stated she had limited notice of the application, she saw a sign in the ditch several days ago and that it was not placed on the correct property.
16. Requested an extension to provide the Commission with more documentation to back up her statements.

17. Requested Commissioners consider the welfare of the community, the welfare of her family from a health issue, the light on the tower, and the lowering of land values.

No one else from the public spoke for or against the public hearing.

Chair Hayes closed the public hearing.

Mr. Mandolfo responded to Mrs. Hanus's comment with the following:

1. Electromagnetic energy is not allowed in any jurisdiction because towers essentially produce none.
2. Maintaining safe schools are an important issue. Westside High School has four towers on their athletic field right next to the high school and a fifth is planned for that location and is sure those would not be allowed if there were any health concerns.
3. They have been working with Mr. Akerlund for several months and understand he is the largest organic farmer in Douglas County and has turned down offers to buy his property.
4. The goal for locating the towers is for the location that will best serve the purpose.
5. Engineers look at the area to be served not what is next door or across the street.
6. As leasing agents our goal is to make location as easy as possible because we get paid quicker.
7. If there was an alternative location, we would have proposed that site.
8. Just south of 96<sup>th</sup> and Harrison, there is a tower with new houses surrounding it and a church will be built underneath it very shortly. It was in place before development, so doesn't know if land values have been impacted.
9. The Federal Aviation Administration has written a letter of no-interference in terms of flight paths.
10. Also pointed out that the proposed tower site is at least ½ mile from Mrs. Hanus's house.

Mrs. Hanus responded that Mr. Akerlund is well over 80 years old and the last surviving member of their company. Also stated she was told by Mr. Dunne that Mr. Akerlund chose the location for the proposed tower. Also stated that Mr. Akerlund told her he would consider putting the tower on the other side of his property so no houses would be affected. Also pointed out that the FAA doesn't regulate gliders that use the area.

Questions, Comments, and Discussion among Commissioners:

1. Commissioner Vacanti asked if AT&T previously had towers located in this area. Mr. Mandolfo stated that AT&T didn't have a network in place to service their customers. Those dead areas are now being filled in. He stated that several towers would be built in Fremont, one near Valley, and eventually Norfolk.

2. Commissioner Vacanti asked the cost for acquiring the land and constructing the tower. Mr. Mandolfo stated the costs for tower construction are about \$80,000 to \$100,000 with approximately \$250,000 worth of equipment.
3. Commissioner Vacanti stated he wanted to make sure the towers are included on the tax rolls. Ms. Frohlich stated that a copy of the building permit is sent to the County Assessor.

Motion by Commissioner Roberts to recommend approval of the Conditional Use Permit, seconded by Commissioner Burhn.

Voting Yes: Boozer, Bruhn, Hayes, Houlihan, Janke, Lanoha, Roberts.

Voting No: Vacanti.

Commissioner Gerdes returned to the meeting at 6:24 p.m.

**APPLICATION P-9-05**

REQUEST: Approval of Preliminary and Final Plat, Sachs Acres, 17.89 acres, Lot 1-6.042 acres and Lot 2-10.841 acres, zoning to remain AF-1

LEGAL: Part of the N ½ of the NE ¼ of Section 25, Township 16, Range 10 E. of the 6<sup>th</sup> P.M.

LOCATION: 20949 State Street

APPLICANT: Charles A. Sachs II and Carol S. Sachs, 20949 State Street, Elkhorn, NE 68022

Todd Whitfield , Lamp, Ryneanson & Associates, 14710 W. Dodge Road, Omaha, NE made the following comments as representative for Charles and Carol Sachs: Mr. and Mrs. Sachs own a 17 acre parcel. Their neighbor farms 10 acres of the parcel and they want to split it off and sell it to that neighbor to eliminate the leasing of the property.

Chair Hayes opened the public hearing.

Clark Heitkamp, 20920 Sheffield St., Elkhorn, NE 68022 asked for clarification of the exact location of each lot in the proposed subdivision.

Mr. Whitfield showed Mr. Heitkamp a drawing that outlined each and explained that lot 1 is where the house is now located. He also stated that lot 2 is currently farmed and the Sachs want to sell that lot to the landowner that farms it.

Chair Hayes closed the public hearing.

Mr. Holm explained the staff report recommendation that the subdivision request be denied with the following comments:

Last month consistent with the changes that we are being recommended for the Comprehensive Plan in limiting acreage development in the Papio Watershed especially, you recommended for approval a change in the AF1 and the AF2 zoning to increase the minimum lot size from 2 acres to 20 acres. That is going before the County Board on November 29<sup>th</sup>. To be consistent with the intent of that and your actions last month, we are recommending denial of this application and I believe also the other one that deals with acreage development. That's the basis for it.

Commissioner Vacanti asked if the County Board had approved the change in minimum lot sizes. Chair Hayes stated it would be considered by the County Board the end of November.

Motion by Commissioner Vacanti to recommend approval, seconded by Commissioner Lanoha.

Lanoha: The reason I second was we have had discussion about this 20 acre rule that we are trying to keep large acreage subdivisions from starting over the county so I am quite comfortable with this happening.

Voting Yes: Boozer, Bruhn, Gerdes, Houlihan, Janke, Lanoha, and Vacanti.

Voting No: Hayes, and Roberts.

Abstain: None

**APPLICATION P-10-05**

REQUEST: Approval of Preliminary and Final Plat, Side Hill Acres, 10.52 acres, Lot 1-6.8 acres and Lot 2-3.0 acres, zoning to remain AF-2

LEGAL: Part of the SE ¼ of the NW ¼ of Section 20, Township 16 N, Range 11 E of the 6<sup>th</sup> P.M.

LOCATION: 9210 North 186<sup>th</sup> Street

APPLICANT: Greg Paasch, 9210 North 186<sup>th</sup> Street, Bennington, NE 68007

Greg Paasch, 9210 N. 186<sup>th</sup> Street, Bennington, NE presented the application with the following comments:

1. The purpose of the application is to split the current acreage into two lots.
2. When the property was purchased, it was taxed as a farm and it is now taxed as a farm anymore.
3. The plan is to grow trees on the second lot but wants to split it for possible future use.

Chair Hayes asked if the second lot would have its own driveway. Mr. Paasch stated it would have a driveway along the south property line to 186<sup>th</sup> Street.

Mr. Paasch continued his comments:

4. Feels he is already paying taxes as if the property is lots.
5. He stated property values have quadrupled since 1991 and his tax base is now \$20,000 per acre.
6. Nothing can be done with it and it cannot be taxed as Greenbelt so want to exercise his right to divide the property.

Chair Hayes opened the public hearing.

Chair Hayes asked if all Planning Commissioners received a letter from Ronald Brown.

Jeff Farnam, attorney representing Dennis Hawks (9220 North 186<sup>th</sup> Street), the owner of a 15 acre tract immediately west of the Paasch tract made the following comments in opposition to the application:

1. Mr. Hawks originally owned 25 acres and the Paasch tract was split off that 25 acres in approximately 1994.
2. Mr. Hawks filed some covenants at that time limiting the use to single family residential to be consistent with the existing uses in the area.
3. The area is rolling hills with surrounding acreages. Mr. Hawks' acreage to the west is 15 acres. To the north is an acreage of about 15 acres. To the south is an acreage of six acres. There are approximately 10 to 20 ten acres lots in the immediate area and probably 50 ten plus acre lots within a couple of miles radius of this area.
4. Mr. Hawks and a lot of other people have made significant investment in their homes and have moved there for the privacy their acreage provides. They do not believe that three acre lots are consistent with the existing uses in this area.
5. Mr. Paasch applied for a variance approximately five or six years ago to enlarge a building on his property. I represented Mr. Hawks's opposition to the application.
6. Expressed concern that the change in allowable accessory building sizes would allow a much larger building than the previous regulations.
7. Also pointed out that Mr. Paasch can plant trees on his property without splitting it.

Ron Brown, 9112 North 186<sup>th</sup> Street, made the following comments:

1. My wife Jeannie and I are concerned about property values and we don't want a road going up the north side of our property line.
2. Planting trees on the property would be great but concerned about there being a house there in the future.

Ray Thielen, 18375 Military Avenue, made the following comments in opposition to the application.

1. Stated he lives east of the property and is concerned about a use other than trees.
2. The property does not need to be subdivided to plant trees.
3. Prefers 20 acre lots be required for well and septic tanks and that subdivision wait until public water and sewer is available.

John Anderson, 9424 North 186<sup>th</sup> Street, made the following comments:

1. Stated he lives north of Mr. Paasch and owns 15 acres.
2. Moved to the area to have more space.
3. Mr. Paasch already has built a 4,500 sq. ft. building and is concerned that he would build another building on the second lot.
4. Stated he is opposed to the application because of the possibility of more big buildings in the area.
- 5.

Chair Hayes closed the public hearing and asked Mr. Paasch when the building was expanded. Mr. Paasch stated it was approximately a year after moving to the property.

Questions, Comments, and Discussion among Commissioners:

1. Commissioner Gerdes asked if Mr. Paasch planned to retain ownership of the property. Mr. Paasch responded absolutely.
2. Commissioner Gerdes asked if there is a business reason, limitation of liability or something. Mr. Paasch stated it is for planting trees but it also gives him an option for another use since the rules have changed.
3. Chair Hayes commented that she was not sure what Mr. Paasch meant by rules changing. Ms. Frohlich stated that she believed Mr. Paasch was referring to Greenbelt laws. Chair Hayes explained that the Planning Commission has nothing to do with Greenbelt laws. Mr. Paasch stated that he realized that.
4. Chair Hayes asked if it had been determined that his property is not considered a farm. Mr. Paasch said he had sold hay off the property for 8 years.
5. Chair Hayes stated that she did not understand how subdividing would help his situation. Mr. Paasch stated it does not help him at this time but is for the future. Pointed out that 2 ½ acre lots already exist in the area and Frank Krejci's subdivision touches one corner of his property.
6. Commissioner Vacanti asked if Mr. Paasch had a layout of the area. Mr. Paasch said he did not.
7. Ms. Frohlich stated that Don Nielsen had an aerial view of the area.
8. Mr. Nielsen stated the County Engineer's comments were in regard to driveway connections and right of way dedication.
9. Commissioner Lanoha asked if Mr. Paasch had considered that his taxes may go up as a result of subdividing. Mr. Paasch stated they had already gone up a considerable amount and didn't think the property could be valued at much more than \$20,000 per acre.

Motion by Commissioner Vacanti to lay over the application failed for lack of a second.

Motion by Commissioner Roberts to deny the application, seconded by Commissioner Gerdes.

Voting Yes: Boozer, Gerdes, Hayes, Houlihan, Janke, Lanoha, Roberts.

Voting No: Bruhn and Vacanti.

Abstain: None

## Announcements

1. Pheasant Haven - Ms. Frohlich stated that an inspection was done at Pheasant Haven on November 1, 2005. Pheasant Haven could not be contacted as is usually done right before the inspection because the phone had been disconnected. Mr. Bruhn needs to provide proof of insurance. A written report will be available for the January meeting.
2. Notification of Landowners - Commissioner Boyle asked that the distance for notifying landowners of public hearings be re-considered and that will be on the January 2006 agenda.
3. Comprehensive Plan Update - Marty Shukert, RDG, made the following comments regarding the progress on the Comprehensive Plan:
  1. At the last committee meeting there were several interested parties in addition to the committee members, developers of the Hamptons and Melvin Sudbeck, landowner and developer in the area.
  2. A variety of capacity scenarios have been looked at for the various policy areas to look at full buildout.
  3. The area most likely to be urbanized is referred to as the Papio North Basin. This area includes about 7,200 developable acres and excludes the landfill, required buffer area around the landfill, the radar site, and existing residential development.
  4. This entire area will be sewerred and developed in urban densities, 2.3 units per acre with a total yield of 60,700 units and a population of approximately 48,000 people.
  5. The City of Omaha Planning Department calculates that 25 to 30 years from now the Papio Watershed area will be fully built out.
  6. The next area is Resource Extraction, the area where we anticipate there will be gravel mining and ultimately be developed a residential park and lake communities.
  7. Pre-existing lake communities generate a gross density of about 2.5 acres per unit so there is a maximum capacity of about 7,000 people or 2,500 units.
  8. Development at this level would tend to require municipal water and may require some form of wastewater management as opposed to septic systems.
  9. The next area is the Flood Plain and this area is largely farm land.
  10. It is within the 1-00 year flood plain and development is assumed to be at very low density if development occurs at all.
  11. The average gross acres per unit would be in excess of 10 acres.
  12. This area would accommodate about 750 units or 2,250 people.
  13. The area along Highway 275 designated as industrial and business would probably be sewerred through the Fremont sewer system. The population for this area is estimated at 1,000 to 1,500 people if a portion of the area is residential.
  14. The Urban Reserve area is within the 500 year floodplain and could be sewerred through the Fremont sewer system.

15. There are approximately 3,300 developable acres within the area. Low density development is projected for this area to maintain this area for future urban development.
16. The build through concept could be utilized in this area
17. The Elkhorn Bluff area is the area over the watershed line to the west toward the Elkhorn River. This area is projected for low density conservation development at five acres per unit.
18. This would yield about 800 housing units or 2,300 people.
19. In unconstrained areas of this watershed, it might be possible to develop to urban density with the conduct of wastewater into Omaha.
20. The Papio bluff south area is just outside Omaha's jurisdiction that is within the Papio watershed. This area is projected for urban density with wastewater draining to the Omaha sewer system, 2.3 units per acre yielding approximately 1,600 people.
21. There are several scenarios for the Elkhorn Bluff south area that includes the Hamptons development.
22. One scenario is for this entire area to be sewerred and the wastewater conducted by lift station into the Omaha sewer system.
23. This area is approximately 1,700 developable acres that will yield about 11,000 people if developed at urban density.
24. It is estimated that this density would generate a traffic load of approximately 40,000 vehicles per day on Q Street. Q Street would probably be improved to a 4 or 5 lane arterial with a local street collector system.
25. The second scenario is based on small acreage or large lot development with a community wastewater system such as a package plant that would be approximately 1.5 acres per unit with a yield of 3,000 people.
26. The next scenario would say that there would be no more development on community wastewater systems and development would be served by individual wells and septic systems.
27. This scenario is not based as much on transportation concerns as wastewater policy.
28. Another scenario is to develop the areas unconstrained by environmental factors at urban density with the balance developed at lower density and supported by individual or community systems.
29. At the committee meeting, it was the consensus that the less environmentally constrained areas be developed as urban density with the wastewater going east to the Omaha sewer system.
30. The possibility of the Hampton plant supporting the rest of the area and how many years of operation are feasible, transportation system needs, and the carrying capacity of the land given its topography are issues that still need to be worked out.
31. The road systems required to support the various densities also need to be addressed.

Questions, Comments, and Discussion among Commissioners:

1. Commissioner Roberts asked for clarification about package plants because in one draft, it said no package plants. Mr. Shukert responded that he was not talking about multiple package plants but rather one plant that has been approved by County that has the capacity to expand to serve this entire watershed.
2. Commissioner Lanoha stated he was opposed to having 1,000 homes in that watershed. The development that has been approved has to go forward but doesn't automatically mean that other developments should be approved just because a plant can be built to this size. That would put the owner of the plant in control of other subdivisions and other developers could be forced out.
3. Mr. Shukert stated he was not in favor of one SID or private developer controlling everybody else's development. Omaha instituted the interceptor sewer program in 1997 to avoid that situation.
4. Chair Hayes asked Commissioner Lanoha what he would propose. Commissioner Lanoha stated that each development project should be evaluated separately and the treatment plant for the Hamptons should only be allowed to serve that project.
5. Commissioner Lanoha asked if this situation existed anywhere else. Mr. Shukert stated a community system has been proposed for Sarpy County but it would be controlled by a regional authority not a developer.
6. Engineers recommend a centralized wastewater facility because it is better to have one that is a good one rather than 15, where 2 or 3 may fail. From an operational perspective, a centralized treatment plant that is controllable, manageable, and hopefully operated according to a strong standard is a good idea.
7. A centralized facility controlled by a private party would be like Omaha's wastewater system controlled by a private party who could decide who gets to hook onto it or not.
8. It would be desirable to have a plant operated in the public sector.
9. Possibly there could be a contractual agreement between the County and the owner of the plant that outlines what can and cannot be done.

Commissioner Boozer and Commissioner Vacanti left the meeting at 7:24pm.

Meeting adjourned at 7:30pm.