

MINUTES
HARVEY COUNTY REGIONAL PLANNING COMMISSION
HARVEY COUNTY BOARD OF ZONING APPEALS
Harvey County Courthouse
Community Room
September 1, 2009
7:00 PM

Members Present: Larry Goering, Sam Griffin, Clifford Kirk, Dorothy Thiessen, Larry Emmel, Harlan Foraker, Bonnie Wendling, Alan Beam, Carroll Harder, Al Heine & Jack Bender

Members Absent: Ron Peters, Robert TenEyck, & Chad Fuqua

Staff Present: Scott Davies, Planning & Zoning Administrator,

Others Present: Dale Griffin, Bernard Gatz, Raymond Bretton, Paul DuBois, Mike L. Unruh, & Rojean DuBois

At 7:00 pm Chairman Emmel called the meeting to order.

1. Mr. Emmel asked for a motion to approve the July minutes, Mr. Griffin moved and Mr. Foraker seconded to approve the July minutes, motion carried 10-0. The Chairman introduced Mr. Al Heine as a new member of the planning commission, representing the City of Walton.
2. Staff Report: Fourteen permits were issued during July for a total construction estimate of \$1,005,918.8; fourteen permits were issued in August for a total construction estimate of \$991,737.30.
3. **CUP 1-22-2W** Request from Mike L. Unruh for a conditional use permit to construct a building and operate a construction business in the A-1 Agricultural zoning district. Chairman Emmel reviewed the procedure for a conditional use permit. Staff presented report concerning the request. It was noted by an unidentified commissioner that under letter F of staff report it should read Agricultural not Residential zoning district.

Mr. Bender asked about the phrase "...an invasion of an inappropriate use" under letter C of the staff report. Staff explained that it is a use that is not appropriate or allowable for that particular zoning district. Mr. Bender asked about the setback distance. Staff reviewed the application and it appeared that it would be setback approximately 125 feet from Hertzler Rd. which will exceed the minimum setback for a township road of 80 feet.

Mr. Unruh said that he was not aware that he needed a building permit to construct a shop building. He said that when he went into talk to staff about the permit, he was informed that he was operating a construction business in violation of zoning regulations. He said staff informed him of the process to apply for a conditional use permit. Mr. Unruh said he had been operating a construction business at that location for about 10 years and would like to continue operating at that site rather than finding a location inside a city's limits.

Mr. Emmel asked if the Quonset building was there when he moved there. Mr. Unruh said yes. Mr. Emmel asked how long the new building had been up. Mr. Unruh said about one year. Mr. Foraker asked if there had been any comments. Staff said no.

The Chairman asked for a motion. Mr. Bender moved to approve the request based on letters A thru D. Mr. Griffin second the motion. There was a comment by Mr. Goering that the property was being well maintained. The Chairman called for a vote. **The vote was 10 for and 0 against, motion carried.**

4. CASE NO. 17-24-1E Request from Bernard Gatz and Paul DuBois to rezone approximately twenty acres from A-1, Agricultural to R-S Residential zoning district. Staff presented report.

First to speak for the rezoning and representing the applicant was Raymond Bretton with Alpha Land Surveying. He commented that there has been an interest in larger lots and the first addition to Prairie Meadows has been filled. Mr. Bretton said it would be a four lot subdivision with a road down the center ending in a cul-de-sac. He pointed out that the rezoning would be connected to another parcel that is already zoned residential.

Mr. Paul DuBois, one of the applicants spoke next in about the request. There was some discussion about drainage issues. Mr. DuBois said there would be a drainage area towards the west end that would be grassed because of the slope.

Mr. Foraker asked about acreage of lots, staff said that would be addressed during the preliminary plat agenda item.

The Chairman opened it the discussion up to the public. Mr. Dale Griffin spoke about increased taxes on his property because of a subdivision that was recently developed at SE 60th and S. Spencer Rd. He was concerned his taxes would increase as a result. Mr. Sam Griffin asked where his property was located, Mr. Dale Griffin said at SE 36th and Woodlawn. Mr. Dale Griffin asked if the way the county gets around taking farm land was through the comprehensive plan. Staff said the comprehensive plan protects much of Harvey County from intensive development and from residential subdivisions from springing up throughout the county and in return the plan directs growth in the I-135 corridor.

Mr. Foraker commented concerning Mr. Griffin's concern about his taxes that when property values go up it keeps the mill levy level or they could even go down.

Mr. Bernard Gatz, applicant and spoke in rebuttal in favor of the rezoning request.

Mr. Emmel asked about the location of the proposed road, Mr. Bretton said it would be down the middle of the subdivision. Mr. Emmel asked for clarification on the term vacant in the staff report. Staff replied it was when a property is not useable in the current zoning district.

The Chairman called for a motion, Mr. Griffin moved to approve the zoning request, Mr. Heine seconded the motion. **The vote was eight for and two opposed, motion carried.**

5. Prairie Meadow Second Preliminary Plat. Staff presented report. Mr. Foraker asked whose jurisdiction is Old Hwy 81; staff said that it is owned by the county. Mr. Foraker asked about the requirement for 5 acres but the lots were showing less than 5 acres. Staff said that the property line would go to the centerline of the interior road and including the right of way they would have the 5 acres. Mr. Foraker also recommended that there be access control along Old Hwy. 81 so that there would only be one access point to the subdivision. Mr. Kirk asked about setback requirements, staff said that from the front a 50 foot setback is required and from the sides and rear a 40 foot set. There was a question about the setback from a township road; staff said under the residential zoning district, the principal structure is to be setback 80 feet from the centerline of a township road. The preliminary plat showed 50 feet from the edge of the right of way and with 30 feet to the centerline of the interior road it would comply with the minimum 80 feet setback.

Mr. Goering asked if the Township had looked at the preliminary plat. Staff said that a copy of the preliminary plat had been given to them but had not heard back from them. Mr. Goering questioned whether the turning radius would accommodate a road grader. Staff said that he would check with Mr. Adams with the county road and bridge to see what size would be needed to allow a grader to make a turn in a cul-de-sac. Mr. Foraker suggested increasing the radius to 50 feet. Mr. Foraker expressed concern about gravel being dragged onto Kansas; he recommended that the entry right of way be paved to prevent this from happening. Mr. Foraker also commented about the drainage area to the west end of the plat. Mr. Foraker recommended that a drainage plan be written to reduce the risk drainage problems.

Chairman Emmel summed up the recommended changes; there should be control access noted on the final plat along Kansas Rd, secondly a request for pavement for the approach, a drainage plan be submitted and that the cul-de-sac radius should be reviewed to determine an appropriate turning radius.

Mr. Emmel asked for anymore comments, Ms. Thiessen after looking at the plat and road said she felt that there should only be two lots not four because of traffic and to allow enough space for house, sheds, and sewer system. There was a comment by a member of the audience that there is a long drive in the north subdivision and they have had little problems with maintenance on it.

Mr. Foraker moved to accept the preliminary plat with the four conditions outlined above. Mr. Griffin second. **The vote was 6 in favor and 4 opposed.** Motion carried.

6. **New Business-** Discussion of regulations that pertain to split off of land for poor soil or low productivity. No action was taken because a public notice would need to be published in order to change regulations. Staff reviewed the current regulations for split offs of less than 40 acres based on poor soil or unproductive soils. Ms. Wendling commented that some of the soils that are classified as poor soil can be used for livestock and she mentioned the Dirks request for a split off. Mr. Goering handed out a pamphlet that classified soils based on a number of criteria. He reviewed the criteria in rating the productivity of the soil. Mr. Goering said that the commission should review this and keep it in mind when making a decision on allowing a split off for unproductive soils. He felt the Mayeske split should have been denied if these issues were considered. It was recommended that the brochure be part of the regulations in considering a split off.

Penalty fees were also discussed in light of people not obtaining building permits before starting construction. Mr. Harder said that penalties should be high such as \$1,000 to get people's attention that permits are required. He felt that the current fines are low enough people will pay them if they get caught building without a permit and so they go ahead and build without one. The Chairman instructed staff to bring recommended increases in the penalties for not obtaining a permit before construction to the next meeting.

Mr. Griffin moved to adjourn, Mr. Kirk seconded, motion carried, meeting adjourned at 9:00pm.