

**SARPY COUNTY PLANNING COMMISSION  
MINUTES OF MEETING  
October 18, 2016**

**I. CALL MEETING TO ORDER**

A meeting of the Planning Commission of Sarpy County, Nebraska was convened in open and public session at the call of Chairman Tom Ackley at 7:00 P.M. at the Sarpy County Courthouse in Papillion, Nebraska. Chairman Ackley noted that a copy of the "Nebraska Open Meetings Act" is posted on the north wall of the Sarpy County Boardroom. Roll call attendance was taken followed by the Pledge of Allegiance.

Present: Deanna Korth, Pat Lichter, Charly Huddleston, Doug Whitfield, Tom Ackley, Mike Sotak, Gayle Malmquist, Marty Giff, Jerry Torczon and Michael George. Absent: Jan Davis.

Notice of the public hearing was given in advance thereto by publication in the Omaha World Herald dba Bellevue Leader, Papillion Times, Gretna Breeze and Springfield Monitor. Proof of Publication is on file in the Planning Department. Notice of the meeting was simultaneously given to all members of the Planning Commission of Sarpy County, Nebraska. Availability of the agenda was communicated in the published notice and in the notice to members of the Planning Commission of this meeting.

Sarpy County staff present: Bruce Fountain, Director of Planning & Building Department, Kelly Jeck, Planning & Zoning Assistant, and Michael Smith, Deputy County Attorney.

**II. CONSENT AGENDA**

1. Approval of Minutes from the September 20, 2016 meeting.

**MOTION:** Whitfield moved, seconded by Torczon, to approve the Consent Agenda. **Ballot:** Ayes – Korth, Lichter, Huddleston, Whitfield, Ackley, Sotak, Malmquist, Giff, Torczon and George. Nays: None. Abstain: None. Absent: Davis. **Motion carried.**

**III. REGULAR AGENDA**

1. **PUBLIC HEARING AND RECOMMENDATION:** Western Sand & Gravel Company has submitted an application for consideration of an Amendment to an existing Special Use Permit in the AG Agricultural Farming District to allow the extraction and processing of sand and gravel on four parcels legally described as: 1) Tax Lot 1A2 exc pt for Mopac Trail & Tax Lot 1B; and 2) Tax Lot A, Tax Lot B, Gov Lot 5 S of RR, & pt of SE1/2 SE1/2, both in Section 18, Township 12N, Range 11E; and 3) Tax Lot A, N of RR; and 4) Gov Lot 1, Tax Lot A, S of RR & Tax Lot 1, both in Section 19, Township 12N, Range 11E, and all in Sarpy County, NE. Generally located southwest of W Highway 31 and 188<sup>th</sup> Street.

Bruce Fountain, Director of Planning and Building Department, said this application is an amendment to an existing Special Use Permit to allow the extraction and processing of sand and gravel on approximately 193.50 acres of land to the west of Western Sand & Gravel's current operation. Mr. Fountain said the Comprehensive Plan shows the area as Greenway, and the proposed use would be consistent with this land use designation. Access to the subject property will be from the existing access at Highway 31 and 188<sup>th</sup> Street.

Mr. Fountain said this application was sent to area jurisdictional agencies and departments within Sarpy County for review and comment. Papio Missouri NRD provided comments regarding the AE Flood Zone and the MoPac trail along the south side of Highway 31. Mr. Fountain provided the following general comments:

- The proposed new area will allow the applicant to continue their operations for an additional 15-20 years.
- The site is actively mined from April 1 to December 1 of each year, with year around maintenance activities and approximately 50 truck trips per day.
- The plant has eight employees, but provides employment for many more on an indirect basis.
- The overall site will remain unchanged except for the relocation of the dredge.
- Sarpy County Planning and Building have no record of complaints from the existing operation on file.
- The site is located within the AE Flood Zone of the Platte River and must follow Section 30, Flood Plain Regulation of the Sarpy County Zoning Regulations.
- In addition to the request to amend the SUP the applicant has requested approval of a Flood Plain Development Permit (FPD 16-020) to place the waste material (fill) from the new area within the area that is currently being mined resulting in a net reduction to elevation of areas located in the floodway. That submittal is awaiting a No Rise Certification from the Engineer of record.
- Access to the MoPac Trail and parking lot will need to remain open during all operations on the site.

Mr. Fountain added that their hours of operation are currently 6 a.m. to 6 p.m. and in the past there has been night work during extremely busy times.

Mr. Fountain said the Planning Department recommends approval of the Amended Special Use Permit application allowing for the extension of an existing mining operation extracting and processing sand and gravel in the AG/FP (Agricultural/Flood Plain) District contingent upon the Flood Plain Development Permit being approved prior to this application going to County Board. This recommendation is being made as the request is in compliance with the Sarpy County Comprehensive Plan and Zoning Regulations.

Dave Brokenhoff, general manager at Western Sand & Gravel, and T.J. Hyland, project coordinator, appeared on behalf of Western Sand & Gravel in support of this request.

Mr. Brokenhoff said this permit would allow Western Sand & Gravel to continue their existing sand pit mining operation at this location. He said they have been working in an east to west direction on their property and will soon be nearing a point where they will cross into area that is not covered by their existing Special Use Permit. Mr. Brokenhoff said there will be no change to their existing operation. The plant will stay in the same location and the access and truck traffic will continue to be from 188<sup>th</sup> Street; it is only the dredge that will continue to move to the west.

Chairman Ackley opened the Public Hearing on this request at 7:10 p.m.

Andy Harpenau, 19580 W Hwy 31, said his issue is with traffic safety at the 188<sup>th</sup> Street and Highway 31 intersection. Mr. Harpenau said 188<sup>th</sup> Street slopes up to Hwy 31 and what ends up happening is that trucks scaling 97-98,000 lbs. will coast right through the intersection and not stop. He said this is especially concerning when the corn gets tall enough and creates a line of site issue at the intersection.

Stacy and Dustin Fletcher, 19601 W Highway 31, located on the south side of Hwy 31, adjacent to the Western Sand & Gravel property, voiced three concerns:

- 1) The potential that their property would end up in a floodplain based on the activities on the Western Sand & Gravel site;
- 2) Water to their property is from a well and the drilling would cause changes to the water table resulting in issues with their water pressure, the availability of water or the quality of water.
- 3) How this would impact their property taxes in the future.

Kathy Kohlbek, 19706 W Hwy 31, expressed concern about this operation having an effect on the serenity of the area which is the reason she moved out to the country. Specifically, she is concerned about the additional lights, sound and dust this use may bring. Ms. Kohlbek said she is also concerned about the property tax and water issues as well.

Doug Young, owner of a cabin located on leased property owned by Western Sand & Gravel, said he has invested quite a bit of money into his cabin to honor the lease he has with the property owner and to make sure the property is maintained. He is concerned that due to this permit his lease will not be renewed.

With no one else coming forward to speak in regard to this request, Chairman Ackley closed the Public Hearing on this application at 7:21 p.m.

Mr. Brokenhoff said the cabins are on leased property owned by their parent company, Nebco. He said it is a yearly lease and the tenants have always been told to lease at their own risk. He does not have a definite timeline, but estimated that they may not get to the area where the cabins are located for at least 10-15 years.

Mr. Brokenhoff pointed out that the people who live along Highway 31 are at a higher elevation and are not currently in the floodplain. He does not know at this time how far to the north they would actually be able to pump due to a fiber optic line that runs down the old railroad line.

In regard to the property owner's concern about their well, Mr. Brokenhoff said if that is a concern they may have to get an engineer involved to determine what the right course of action is.

Mr. Hyland added that as part of their flood plain development permit they are required to provide a no-rise certificate that is essentially an engineer saying this operation is not going to change the floodplain.

Sotak expanded on the floodplain issue by explaining that a no-rise certificate means they have to show hydraulically that their project has no effect on the floodplain, and if it does, they would be in violation of policy. Consequently, he does not think this project is going to change anyone's floodplain designation. However, Mr. Sotak cautioned that the FEMA maps are always changing and, in fact, there are changes proposed for the Omaha area.

Mr. Brokenhoff said Western Sand & Gravel has operated at this location for 30 years and this permit includes the last of their property at this location. He reported that they have not had any complaints and are very careful about how they run their operation in terms of lights, sound, and dust and try to minimize any impact on the area.

At the request of the Mr. Fountain, Mr. Brokenhoff explained the map submitted with the application showing the areas covered under their existing special use permit approved in 1999 and the area proposed in this application. Mr. Brokenhoff said the plan is conceptual at this point and there is a lot of work to be done not only with the Corp of Engineers but to address the issue of the old railroad right-of-way containing a fiber option line.

Ackley asked the applicant to speak on the safety issue in terms of the street incline where 188<sup>th</sup> Street and Hwy 31 meet.

Mr. Brokenhoff agreed that the line of site is bad at the intersection in both directions. He explained that 188<sup>th</sup> Street is like a ramp of concrete up to Highway 31 and it is especially hard for a truck to go up. Mr. Brokenhoff said they have asked the State of Nebraska about the intersection, but did not get a resolution. Mr. Brokenhoff suggested that the State and Sarpy County work together to resolve this issue.

In response to a question by Sotak, Mr. Brokenhoff said their operation is a mechanical operation. The sand, gravel and water get pumped to the plant and the slurry goes through several screens with the fines go back into the lake. The course material is kept and screened to the gradation that is required. Mr. Brokenhoff said their main products are concrete sand and road gravel.

Sotak said, in his opinion, if their entire operation is mechanical it is not likely to have an effect on water quality.

Whitfield said he does not see that a reclamation plan was part of the original special use permit for this operation, and questioned if a reclamation plan can be incorporated into the new special use permit so it becomes a requirement.

Mr. Brokenhoff said they do have a tree reclamation plan that was done by an engineer 2-3 years ago but have not implemented the plan yet because they want to get more fill material onto the site first.

Korth stated that Highway 31 is a scenic highway, and is a destination for motorcyclists and others who come from all over the city and use the parks in the area. Korth said right now this operation is far enough back from the highway that it is not an eyesore, but what is proposed in this amendment brings the operation very close to the highway and the Mopac trail. She asked when the applicant will have a better idea of what they want to do on this site so that is not just a conceptual plan.

T.J. Hyland said the area north of the fiber optic line and railroad is quite a ways into the future, possibly 10-15 years. He said their operation pumps approximately 4-5 acres a year, but the exact time line is hard to predict. It depends on demand, deposit, depth, and their work with agencies like the Corps of Engineers who will dictate what they have to do to operate.

In response to a question by Mr. Fountain, Mr. Hyland reiterated that their equipment, current plant and stockpiles are going to stay at their current plant site and are not going to move any closer to the highway; only the dredge will keep moving as they mine to the west.

At the request of Whitfield, Mr. Brokenhoff explained in detail how their operation works, specifically what a dredge does vs what the plant does. He said the fine sand that is left over from their process is put back into the lake. Mr. Brokenhoff said at some point, the top soil will be put back on the sand and they will seed with some type of natural grass so the sand is not blowing, eroding or creating a nuisance for anybody.

Mr. Hyland added that when operations are complete they will not leave an eyesore or waste ground. He compared this property to the sandpit lakes around Fremont or Ashland that are some of the most desirable property for recreation and creates habitat for water fowl and other wildlife. Mr. Hyland said they are changing the property, but not in a negative fashion.

Giff asked if the amendment needs to include the full 193 acres today since it sounds like most of their activity in the near future is all going to be south of the fiber optic line.

Hyman said they are trying to plan for the future and would like to include their entire site in this special use permit. He said it is most beneficial to have the special use permit approved so they can then go to the Corps of Engineers and other agencies with a comprehensive plan for the next 15-20 years and be able to move forward with the planning required for the whole property.

Mr. Brokenhoff added that the reviews, reports and studies required when working with the Corps of Engineers can take years and they would like to be able to plan long term.

Ackley noted that the land use plan for this area is Greenway and this use is consistent with that designation. Also, from a long term perspective, the sand pit lakes around Fremont and elsewhere are a nice amenity if done right.

Sotak added that the Game and Parks Commission and Corps of Engineers have included these types of areas in their overall master plan for recreational amenities. For those who are concerned about what the site is going to look like when this operation is done, Sotak said he is of the opinion that the Corps of Engineers is going to make nearly unreasonable demands on how this site will be completed so that should not be a concern today.

Malmquist added that the applicant should have the opportunity to assess the entire site rather than one section at a time. In her opinion, it is rational to look at the larger site in terms of mitigation and in long term planning with other agencies.

Ackley questioned if the current special use permit address the issues of light pollution, dust mitigation, and noise, and if not, do these items need to be addressed in the new permit.

Mr. Hyland said they are regulated by Msha and their stance is to minimize hazards for any employees on the site. He said they try to keep the roads watered if there is dust, and they try to keep the areas well-lit and to not affect surrounding properties.

Mr. Brokenhoff added that there really is not a lot of noise coming from their site, and there would be no noise coming from the dredge because it is electrically driven.

**MOTION:** Sotak moved, seconded by Ackley, to recommend **APPROVAL** of the Amended Special Use Permit application to allow for the extension of an existing mining operation extracting and processing sand and gravel in the AG/FP (Agricultural/Flood Plain) District contingent upon the Flood Plain Development Permit being approved prior to going to the County Board. This recommendation is being made as the Special Use Permit is in compliance with the Sarpy County Comprehensive Plan and Zoning Regulations. **Ballot:** *Ayes – Lichter, Huddleston, Whitfield, Ackley, Sotak, Malmquist, Giff, Torczon and George. Nays: Korth. Abstain: None. Absent: Davis. Motion carried.*

- 2. PUBLIC HEARING AND RECOMMENDATION:** Santa Fe Industrial, Inc. has submitted an application for consideration of Final Plat of a subdivision to be known as Santa Fe Business Park, Lots 1-22 inclusive and Oulots A, B, C and D, being a platting of part of the North ½ of the SW ¼ of Section 16, T14N, R11E of the 6<sup>th</sup> P.M. Sarpy County, Nebraska. Generally located southeast of 180<sup>th</sup> Street and Storage Road.

Bruce Fountain, Director of Planning and Building Department, said this application is for a light industrial business park subdivision consisting of 22 lots and 4 outlots served by a loop roadway through the development with one access point to 180<sup>th</sup> Street.

Mr. Fountain said quite a bit of time was spent trying to figure out how to make this project work in the area. There is a light industrial warehouse use to the north which was platted with the cul-de-sac street as an outlot so this proposed development was not able to tie into that street to allow for better circulation through the area. In addition, there was an issue with the length of cul-de-sac being too long for the County's subdivision regulations. The developer did take that issue to the Zoning Board of Appeals which was denied. Subsequently, the plat came back redesigned with this loop road which does have a cul-de-sac at the end that is now in conformance with the subdivision regulations. Mr. Fountain said the applicant's request for a change of zone to MU (Mixed Use) zoning along with a preliminary plat for the proposed light industrial business park development was approved in late 2015. The County Board just recently approved a 6-month extension of the preliminary plat so the applicant can continue to work on the final plat.

Mr. Fountain said the staff and the applicant are still working out some minor details of the Mixed Use Agreement before submittal to the County Board. He presented some of the exhibits that will be a part of the Mixed Use Agreement showing site signage, landscaping and building design. Mr. Fountain said the result has turned out to be a nice development for the smaller light industrial users, which is definitely a need in the area.

Mr. Fountain further noted that a portion of the property is undevelopable due to floodplain and terrain issues. In addition, the plat takes into account the future design of 180<sup>th</sup> Street through this area. The County Engineer is getting ready to finalize those plans and he did not believe this development would be impacted.

Mr. Fountain said one issue not in the Recommendation Report but still needs to be resolved is the provision for an emergency access from this area either by providing a wider entryway from 180<sup>th</sup> Street (three lanes) or, if the terrain would allow, an access easement from the parking lot on Lot 1 out to 180<sup>th</sup> Street.

Mr. Fountain said this site is located within the City of Gretna Waste Water Service area and a Waste Water Service Agreement with City of Gretna will be required. Providing that sewer actually opens up the potential for some other properties in the area to hook into that sewer in the future.

Mr. Fountain added that the developer proposes to utilize on-street parking in order to meet County parking regulations for some of the smaller lots. The County Public Works Department has indicated that should this on-street parking be allowed, snow removal from those areas will be the responsibility of the adjoining land owners or the developer.

Mr. Fountain said the Planning Department recommends approval of the Final Plat of the subdivision to be known as Santa Fe Business Park, subject to the comments of the Planning Department and finalization of the Subdivision Agreement and Mixed Use Agreement prior to the Final Plat being submitted to the County Board.

Doug Kellner, TD2, 10836 Old Mill Road, appeared on behalf of the applicant in support of this request.

In response to a question by Whitfield, Mr. Fountain confirmed that the exhibits will be in the Mixed Use Agreement and while the exhibits depict the fronts and a few sides of the buildings, there is flexibility to allow the back sides of the buildings to be metal or of a lesser standard because they are not visible from the right-of-way.

Mr. Kellner noted that the Mixed Use Agreement is written almost as a set of covenants so the County will be able to enforce the Mixed Use Agreement for the developer.

Giff suggested that time limitations be placed on the on-street parking stalls to prevent people from leaving vehicles or trailers in the parking stalls permanently.

Mr. Fountain said the parking stalls would be treated like any other on-street parking in the County, however, staff can look at including language in the Mixed Use Agreement stating that trailers and equipment cannot be stored in the on-street parking stalls.

Chairman Ackley opened the Public Hearing on this request at 8:17 p.m. With no one coming forward to speak in regard to this application, Chairman Ackley closed the Public Hearing at 8:17 p.m.

**MOTION:** Malmquist moved, seconded by Lichter, to recommend approval of the Final Plat of the subdivision to be known as Santa Fe Business Park, Lots 1-22 and Outlots A-D subject to the general comments as noted in the Planning Department's Recommendation Report as the Final Plat is consistent with the approved preliminary plat and meets the requirements of the Sarpy County Zoning and Subdivision Regulations. **Ballot:** *Ayes – Korth, Lichter, Huddleston, Whitfield, Ackley, Sotak, Malmquist, Giff, Torczon, and George. Nays: None. Abstain: None. Absent: Davis. Motion carried.*

#### IV. CORRESPONDENCE AGENDA

##### 1. Commissioner's Reports

##### 2. Planning Director's Report

Bruce Fountain, Planning Director, updated the commission on the following applications recently approved by the County Board, as recommended by the Planning Commission:

- Change of Zone from AG to BG and Preliminary Plat for a subdivision to be known as Depot 180, located north of Giles Road and east of S 180<sup>th</sup> Street, lying southerly of the railroad right-of-way.
- Special Use Permit to allow a commercial camping area in AG for Vencils Island owned by Orion Land Management LLC.
- Text Amendment to Sarpy County Zoning Regulations: Section 7 – Boundaries of Zoning Districts.

Next Currently Scheduled Meeting: Tuesday, November 15, 2016.

#### V. ADJOURNMENT

There being no further discussion, Chairman Ackley adjourned the meeting of the Planning Commission at 8:20 p.m.

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Tom Ackley, Chairman

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Kelly Jeck, Recording Secretary