

MINUTES OF THE MEETING OF THE LINCOLN COUNTY PLANNING COMMISSION HELD IN THE LINCOLN COUNTY COURT HOUSE ON THE 14TH DAY OF JULY 2020. CHAIR KOCH CALLED THE MEETING TO ORDER AT 5:30 P.M.

MEMBERS PRESENT: Steve Koch, Brad Stickelman, Linda Hansen, Jim Bain, Rod Rayburn, Chuck Boden, Kurt Pieper, Roger Merritt, Marlene Flaming

MEMBERS ABSENT: Mitch Moorhead, Zak Eickhoff (arrived at 5:37 p.m.)

STAFF MEMBERS PRESENT: Judy Clark, County Planner; Michelle Bain, Recording Secretary; Stephen King, Deputy County Attorney

Notice of the meeting was given in advance thereof, by posting on June 4, 2020 in at least three places in the City as follows: North Platte Public Library, Lincoln County Courthouse, and City Hall offices.

Notice of the meeting was given to the Chairman and all members of the Planning Commission. Availability of the agenda was communicated in the advance notice and in the notice to the Chairman and members of the Commission. All proceedings thereafter shown were taken while the convened meeting was open to the attendance of the public.

1. Roll Call.

Chair Koch stated that a current copy of the open meetings act of Nebraska is posted at the back of the room.

2. Merritt moved and Stickelman seconded the motion to approve the order of the agenda. Roll call vote: "Aye": Koch, Rayburn, Stickelman, Hansen, Bain, Boden, Flaming, Merritt, Pieper. "Nay": None. Absent: Moorhead, Eickhoff. Motion carried.
3. Rayburn moved and Boden seconded the motion to approve the minutes of the June 9, 2020 meeting. Roll call vote: "Aye": Koch, Rayburn, Stickelman, Hansen, Bain, Boden, Flaming, Merritt, Pieper. "Nay": None. Absent: Moorhead, Eickhoff. Motion carried.
4. Discuss and consider reopening public hearing CU20-002 application by Ryan Sellers, owner, and Sapp Bros. Petroleum, Inc., purchaser, for a conditional use permit to allow a Biodiesel Blending Bulk Plant to be located in an I-1 Industrial District. The property is located 2300 feet west of So. Hwy. 83 on Kaneb Rd. consisting of approximately 10.07 acres and is described as a tract of land in the Southeast quarter of Section 29, Township 12 North, Range 30 West of the 6th P.M., Lincoln County, Nebraska.

Judy stated that in order to interact with the public the public hearing must be reopened otherwise the public hearing stands as of the last meeting. Any contacts or letters will not be able to be in the record.

Chair Koch suggested reopening the public hearing.

Rayburn moved and Boden seconded the motion to reopen the public hearing. Roll call vote: "Aye": Koch, Rayburn, Stickelman, Hansen, Bain, Boden, Flaming, Merritt, Pieper. "Nay": None. Absent: Moorhead, Eickhoff. Motion carried.

Chair Koch reopened the public hearing.

A summary of the material presented to the Planning Commission at the last meeting included the following: The applicant generally states that they are planning to use the property for a bulk plant and bio diesel blending operation. Currently, trucks have to drive through North Platte to an area north of the railroad tracks to get bio fuel. This location will eliminate the need and reduce heavy truck traffic in North Platte. There will be containment at the blending location in the county. It will increase traffic on E Kaneb Road; however, truck traffic is already high in this area since NuStar fueling station is located directly to the east of this proposed site. The operation will consist of a secured fenced in area with access permitted 24 hours per day with a key card access. It is anticipated the maximum number of customers expected will be 4 at any one time, business will be 40% wholesale and 60% storage. A letter from Carla O'Dell, County Highway Superintendent, states that she

does not foresee any problems with increased traffic. Driveways will need to be approved by the County Road Superintendent.

At the June 9, 2020 meeting, the Planning Commission was provided with two exhibits, a letter from Shelia Mahler (exhibit 1) and an email from David Perrigo (exhibit 2). Also, Judy Clark, Planning Administrator, stated that the application needed an amended site plan showing a separate and distinct ingress and egress to the site as stated in the Lincoln County Zoning Code Section 8.14.06. They have provided an amended site plan which was distributed to the Planning Commission. The Lincoln County Comprehensive Plan and Lincoln County Zoning Regulations shows this area designated as I-1 Industrial which allows for storage and blending of hazardous material through a conditional use permit, provided the site meets all standards as stated in The Lincoln County Zoning Code, Section 8.14 Above Ground Storage Tanks (AST).

Judy stated several letters have been submitted from Brian and Shelia Mahler, Doug Brott, Justin Wood, Helen LaRue, Steve and Liz Evans, Lois and James Harris, Roland (Rocky) and Diane Hoffman, Bob McCully and Jeff and Marci Heinzen. There were pictures submitted from Sapp Brothers and another map showing the distance from the nearest dwellings (requested by one of the Planning Commission members).

Eickhoff arrived at 5:37 p.m.

Ron Cochran, 1130 E. Birch, Ogallala, and Ryan Stearns, 702 S. Bailey, Hewgley and Associates, were present to represent the application.

Mr. Cochran explained this application is for a bio blending plant and is not a huge plant. He explained how the blending will take place. Everything is bottom load. The season starts the latter part of April and runs through October. This operation is planned to be 24/7 with lights, cameras, car troll gate to get in and out. The trailer has computer system that houses all equipment and electrical. Generally drivers will get diesel at NuStar and blend it in their plant. The next nearest place is Doniphan to blend it which raises the cost for everyone. There will be 8-10 tanks total. They do not foresee the business growing much.

Mr. Stearns pointed out the total tank height is 8' which is the tallest structure other than light poles. There will probably be 4 lights on each end of the containment which are direct on the equipment, no light flood across the property.

Merritt questioned containment.

Mr. Stearns replied it will be contained with a concrete slab and retaining walls.

Koch asked about the current facility in town.

Mr. Cochran responded the site in town is not owned by Sapp Brothers. This site is zoned appropriately and trucks wouldn't have to go across the highway.

The applicants stated there will be 10 to 12 trucks daily including bringing the bio in. They will blend 3-4 loads a day. Most of the trucks will not be new to the area, they will already be going to NuStar. It shouldn't increase traffic on Hwy. 83.

Liz Evans, 521 W. Shirley Ave., was present and asked if the trucks coming down Kaneb Road or going through NuStar.

Chair Koch stated they have to use Kaneb Rd.

Ms. Evans suggested they work out access with NuStar. She explained that the road has been a problem over the years. It's dangerous and semis will not be able to make the turn to get onto the highway safely and the road will be destroyed.

Carla O'Dell, Lincoln County Roads Supt., was present and stated she doesn't foresee a problem with the road. They log every complaint they get on roads and during the harvest season they receive complaints on Kaneb. There will be dust due to the dryness but she doesn't foresee any problem on this road.

Leland Barton, 18077 So. Hazel, was present and stated they are the truck traffic for just that place. He would like to see other truck traffic considered.

Chair Koch stated that's a different road and not what the hearing is about.

Mr. Barton stated he would consider how many other semis are in the area because they are going to add 12 more in a mile radius. He's concerned about accidents. Coming out of there is not easy.

Steve Evans, 521 W. Shirley Ave., was present and stated this facility will sandwich in a family residence. Regardless of what Mrs. O'Dell says he doesn't think that road can handle it and pointed out his concerns. He would like to see them consider the land straight north of NuStar They could put a small frontage road from NuStar to the driveway of this location and then egress back onto Hwy. 83.

Justin Wood, 445 E. Kaneb Rd., was present and stated he owns a small construction company and pulls pickups and trailers. He's also concerned about the road and speed of the traffic. He feels the road is bad 365 days a year.

Erik Mahanes, 18133 So. Meadowlark Ridge, was present and agreed that the road is terrible. When it rains it turns to slop. He assumes trucks will turn mostly to the north. As a Wallace Rural Fire Dist. volunteer he has concerns with response times when it comes to the condition of the road.

Jeff Heinzen, 725 S. Ash, was present and stated he owns property across from the new entrance of this proposed plant. He is also concerned about the road. His tenant intends on moving out because of additional noise, dust, danger to their animals. When children are out playing they don't want to have trucks. That road can't handle 12 trucks and he is concerned about accidents.

Shelia Mahler, 16 E. Kaneb Rd., was present and stated she understands the concern about traffic and road condition. There needs to be some agreement with Sapp bros. for that road. She is also concerned about Mr. Wood's family being between these two facilities. She is concerned about the precedence by allowing that to happen in that area. Although it's an industrial area she doesn't think this is the right type of industrial to put there. She is opposed to this application.

Doug Brott, 18002 S. Meadowlark Ridge, was present and stated the would like to keep the residential ag type property like to the east and west. When we purchased in 2011 and Justin Wood in 2012 they approved a mobile home with allowing a stick built home in 5 years which set a precedence that there is a rural area. They learned the rezoning happened later in 2012. Justin was not aware of the first meeting. He is concerned about his property valuation.

Judy stated in response to Justin not receiving notification of the meeting, a certified letter was sent to him but not picked up.

Roland Hoffman, 18076 So. Hazel Ave., was present and was worried about safety aspects. He suggested Judy did what the law requires and sent out letters on a legal basis. He feels she should look at moral responsibility to people in the area.

Judy pointed out it was also published in the newspaper by law.

Mr. Hoffman further stated he didn't know about this until the day after the meeting. His realtor told him he could look for a \$25,000 loss in industrial intervening. He also suggested placing the plant north of NuStar.

Mr. Wood also suggested they could purchase land north of NuStar.

Mr. Cochran stated they looked at the land going north and with the turning lanes there would be two trucks turning out the same time. They understand the state is going to widen the highway. They tested semis coming up that road and it worked fine. They will do their best to be a good neighbor and if they complain about the road too that's more people complaining.

Judy asked the applicants if they would be willing to put trees on the east side for screening purposes.

Mr. Cochran stated they would be willing. They are buying 10 acres and putting the plant on 5 acres, the other 5 acres will be left as it is now. The issue would be what can be planted over the pipeline at NuStar.

There was discussion about fumes and flammability which would be very few fumes and bio is not flammable. One of the regulations for the conditional use permit is they have to send records of what they're storing to the local fire districts.

Mr. Hoffman suggested people would still be opposed to this even with trees. He's concerned all the places in that area will lose money (lower property value) if the realtor was correct.

Merritt stated the Planning Commission has to consider what the property is zoned for.

Mr. Brott pointed out to Judy that there is a section in the I-1 regulations stating a business such as the Sapp Bros. facility has to be located at least a quarter mile from any residence.

Judy stated the supplemental requirements do mention flammable material has to be ¼ mile from residences or other uses so they would have to increase the distance by about 600' to the west.

Mr. Cochran pointed out this regulation would stop houses from being built across the road.

Helen LaRue, 17740 Hazel Ave, was present and stated even if this legally falls within the grounds of being there, morally people would not want this in their neighborhood. She does not want property values to drop. She is worried about the road and accidents.

Ms. Mahler asked questions regarding if this was a blending plant or not. She has concerns about crossing the NuStar pipeline with semi-trucks, and if there were any weight requirements with crossing the pipeline.

Mr. Cochran explained the process of biodiesel blending.

Mr. Stearns explained they have had conversation with NuStar regarding crossing the pipeline and any required setbacks from the pipeline.

Judy asked if it was possible to adjust the site further west.

There was additional discussion regarding the ¼ mile setback and possible waivers.

Ms. Evans questioned how trucks would enter and exit from the property.

Mr. Heinzen stated the trucks have to leave NuStar and it's obvious these people don't want them out there. They have to leave the site anyway so does it matter if it's 5 minutes away or 12 minutes away.

Stickelman moved and Merritt seconded the motion to close the public hearing. Roll call vote: "Aye": Koch, Rayburn, Stickelman, Hansen, Bain, Eickhoff, Boden, Flaming, Merritt, Pieper. "Nay": None. Absent: Moorhead. Motion carried.

Eickhoff stated his concern is safety and the road.

Bain stated they have been pretty successful as far as safety is concerned. He drove out there and there were probably 15 to 20 trucks out there that looked like they were doing a pretty good job.

Merritt stated the area is zoned industrial. If they have done everything right, he doesn't feel the development can be stopped.

Boden stated he is concerned about the road.

Pieper stated he understands the concern but the area needs new things and industry. This proposed site would keep the trucks out of town.

Judy stated the Planning Commission has several options: approve with conditions, not approve or table the decision and come back with more information.

Chair Koch stated that notice is taken with regards to the Lincoln County Comprehensive Plan, Lincoln County Zoning Regulations and Subdivision Regulations, and Lincoln County Zoning Map and those materials are present on the table up front before this Planning Commission.

Pieper Moved and Merritt seconded the motion to adopt Resolution CU20-002 "A" which grants and approves the conditional use application of Ryan Sellers, owner, and Sapp Bros. Petroleum Inc., purchaser, under File No. CU20-002 to allow a Biodiesel Blending Bulk Plant located on East Kaneb Road consisting of approximately 10.07 acres and described as a tract of land in the southeast quarter of Section 29, Township 12 N, Range 30 West of the 6th P.M., Lincoln County, Nebraska and all elements of the application are complied with and with the following conditions

1. A land use permit is completed prior to construction and submitted to the Lincoln County Planning Office.
2. The site plan shows that they are 1320' from any and all dwellings.

Based on the following factual findings, to-wit:

1. The application complies with current Lincoln County Zoning Regulations.
2. The application complied with current Lincoln County Subdivision Regulations.
3. The application is in conformance with the current Lincoln County Comprehensive Plan an Lincoln County Zoning Map.

Roll call vote: "Aye": Koch, Stickelman, Bain, Eickhoff, Flaming, Pieper. "Nay": Hansen, Boden, Rayburn. None. Absent: Merritt, Moorhead. Motion carried.

5. Old Business. There was no old business to be discussed.
6. New Business. Judy stated that NPZA is considering doing a Fall Conference as Zoom meeting where everyone can pick which sessions they want to attend.
7. Adjourn. Chair Koch adjourned the meeting at 7:12 p.m.

Submitted by,

Michelle Bain
Recording Secretary

PASSED AND APPROVED _____

Date

Michelle Bain
Recording Secretary