

Haysville Planning Commission

Minutes

October 28, 2004

Those members present were: Bob Wethington, Peggy Black, Mike Bradshaw, Clem Dickerson, Pamela Grether, Janet Parton, Pat Patnaude, Don Schneider, and Michael White.

The meeting of the Haysville Planning Commission was brought to order at 7:00 p.m. in the Council Chambers of the Haysville Municipal building by Wethington, Chairperson.

The first item of business were the minutes of September 23, 2004. These were not available.

The next item of business were the minutes of October 14, 2004.

Motion by White

Second by Parton

To approve the minutes of October 14, 2004

Wethington yea, Black yea, Bradshaw yea, Dickerson yea, Grether yea, Parton yea, Patnaude yea, Schneider yea, White yea

Motion carried.

Under Special Order of Business was a public hearing to consider a conditional use permit for sand extraction on property located in Sedgwick County south of 63rd Street on Grove. Wethington read the opening instructions and formally opened the public hearing. Wethington stated this case had been heard by the Planning Commission previously but was back due to a notification error. Wethington asked if any Planning Commissioners had any outside contacts regarding this case other than the comments received when the case was last heard by the Commission. The Commissioners responded no. Wethington asked if any member of the Planning Commission had a conflict of interest in this case. There was no conflict of interest. Wethington asked if the representative from the Metropolitan Area Planning Department had received any written or electronic communications on this matter. Dale Miller, Senior Planner, Metropolitan Area Planning Department, responded no. Wethington stated a staff report was available and asked Mr. Miller to present it. Miller read the staff report. Wethington asked if there were any questions by the Planning Commission. Schneider asked if Miller was saying the Fire Department does not want access to the site from Lorraine. Miller stated that the Fire Department might propose that the access be gated for emergency access only. Schneider asked how sand pits affect groundwater. Miller responded there was no evidence of a sand pit polluting groundwater. Schneider asked if there were any known reports of a sand pit affecting the water capacity of residents near a sand pit. Miller stated there were none that he was aware of.

Wethington stated that it was now time for the applicant or agent to present their case. Chuck Hill, Cornejo and Sons, apologized for the error with the official notification list. Hill stated that information packets had been distributed to the Planning Commission. Hill said included in the packet is a report from Carl Nuzman, P.E., P.Hg., giving his opinion that there is no significant drawdown of ground water level in an aquifer associated with a sand and gravel operation. Hill stated the packet also includes a revised site map that includes a twenty foot buffer and a 100

foot buffer from the existing house on Grove. Hill stated the packet includes a letter from Michael Cochran, Kansas Department of Health and Environment, regarding the plugged oil well and information regarding the plugged well on the subject property. Hill stated Cornejo and Sons has agreed to pay for the costs of upgrading Grove to industrial street standards from the entrance of the operation to 63rd Street. Hill asked the Planning Commission to approve the conditional use permit. Wethington asked if there were any questions of the applicant from the Planning Commission. Black asked if the street would be upgraded prior to the beginning of the operation. Hill stated that there were no set plans at this time. He stated there would probably be work on the site prior to the road construction, but the road should be in place before they would start hauling sand. Black stated her biggest concern is the safety of the area residents. Hill stated the improved road would be better for the neighbors and for the company's trucks. White asked if Mr. Nuzman is on Cornejo's payroll. Hill responded no. White asked if the residents were made aware that there were three types of fences that could be put along the perimeter of the operation. Hill responded no. White stated it is his opinion the residents should be able to vote on the type of fence put up because they will be the ones that have to look at it. Hill stated a landscaped berm would be put in to buffer the view of the fence. White stated the public should have a choice on the material so that they can not see what is on the other side of the fence. White stated the jog in the road is narrow and he would recommend the road be fixed before the company starts hauling sand. White said his other concern is the well and he would recommend the digging stay no less than 100 feet from the well. Hill stated in regard to the fence, Cornejo would be willing to hear the residents' opinions, but there is no requirement for them to do so. Hill stated that the fence proposed is in accordance to the zoning ordinance. Hill stated that the road improvement will be a condition of the conditional use permit and the improvements will have to be made. Schneiter stated these items were discussed at the last meeting and had been settled. Dickerson stated that one condition put in place the last time was that the County Engineer be contacted in regards to posting no commercial traffic signs on Lorraine. Dickerson asked if this had been done. Hill stated Cornejo had not contact the engineer. Miller stated he would be doing that before the case is heard by the Board of County Commissioners. Miller stated that the Metropolitan Area Planning Commission (MAPC) and the Haysville Planning Commission can only make a recommendation on this. He said it would be up to the Board of County Commissioners to decide to restrict traffic based on a report from the Engineer. Black asked how sand would be kept from blowing in high winds. White asked the distance of Grove from the operation entrance to 63rd Street. The response was 8,000 feet. Schneiter asked what the plans are for security lighting. Cornejo responded that lights were only being proposed to light the area around the scales and the office. There was a discussion on the typical hours of operation which were stated as 7:00 a.m. to 6:00 p.m.

Wethington stated that it was now time for members of the public to speak. He reminded the public that they were welcome to present their opinion, but past court rulings require the Planning Commission to make decisions based on facts, so factual information is much more helpful. Wethington stated that they would have five minutes to speak and that no speaker would be heard more than once. Wethington asked that speakers state their name and address for the record.

John P. Brach, 7011 S. Volutsia, stated his property abuts to the proposed sand pit. Brach stated he is concerned with the water issue. He said his concern is not quality but quantity and he is not convinced the operation would not affect his water. Brach stated the Kansas Department of

Agriculture Division of Water Resources has not approved this application yet. He stated he has concerns with the truck traffic affect on safety and on the road condition. Brach also stated concerns with the noise and air pollution from the operation. He stated the sand in the air would affect people with breathing problems. Brach stated the hours stated are from 6:00 a.m. to sundown which means the operation could run until 9:30 p.m. in the summer and the residents would have to listen to the noise the whole time. Brach also stated he thinks the operation will have an impact on property values. Brach asked how Haysville is even involved in this process. Wethington explained Haysville's area of influence.

Darrell Scholfield, 6745 S. Grove Court, stated he lives in Pine Bay and this operation will affect his property value until the property is turned into a residential development. He stated concern with the increase in traffic. Scholfield stated there are other areas to locate a sand pit that would be better suited. Scholfield expressed concern with stormwater runoff.

Mary Pat Jeffreys, 2006 Winchester, stated her family had moved to the area because it was quiet. She stated they have health problems and are concerned with how this operation will affect them. Jeffreys asked how the operation would affect the drainage in the area.

Jon Silvers, 7000 S. Rutan, stated it was his understanding that a sign should have been posted for a minimum of 30 days that stated a case is being considered on the property. He said there was no such sign. Silvers asked who would be responsible for maintaining the landscaping. He stated there are a lot of abandoned sand pits in the area and some of them look like trash. Silvers stated that sand would blow as you see when you drive down I-235. Silvers asked if the Commissioner's would want this in their area. Silvers asked if the fencing and maintenance would be the same as the operation on Pawnee and 31st Street. Schneiter stated the two could not be compared because they are zoned differently and the operations are different.

Lonetta Lollar, 711 S. Volutsia, state she appreciates the effort Cornejo has made to address the neighbors concerns. She stated that the Division of Water Resources has not made a recommendation on this yet. Schneiter asked if she was saying that the Division of Water Resources has not made a recommendation yet. Dickerson stated he had dealt with groundwater and the levels go up and go down depending on the season. He stated that there are almost no issues that he can see. Dickerson stated he lives across from a former sandpit and has had no problems. Lollar asked if it was fair that the residents had to put up with this for up to twelve years for the profit of a company.

Deanna Deutscher, 2209 E. Fagar, Stated it is bad practice when business is allowed to destroy what we have worked hard to build up. She stated 63rd is the only way in and out of that community and the traffic will have an affect. Deutscher stated this will be a hindrance to the community as well as to Sedgwick County.

Nancy Baraby, 6802 S. Grove, asked about the berm. Hill stated the berm would be a meandering berm comparable to the berm at the transfer station on 55th and Hoover. Cornejo stated the height would vary to make it more attractive. Baraby asked if she would still be able to see equipment. Cornejo responded yes. Baraby stated she knows how truck drivers are and there will be problems with traffic. She stated this would affect the lives of the area residents negatively. Baraby stated she has heard there were two wells on the property. Hill stated there is

only record of one well on the property and they have checked with the KCC. Baraby stated there are over 150 homes in the area and people moved there to get away from the City.

Stan Haywood, 2105 E. Winchester, asked if this is a done deal. The response from the members of the Planning Commission was no.

Linda Berry, 7056 S. Rutan, asked why Cornejo did not just develop the area as residential. She stated it would be much more profitable.

Schneiter stated that at the last meeting he had asked the members present to find factual evidence to support their claims by talking to people in areas near a sand pit operation. He asked if this had been done. Someone from the audience stated that all neighborhoods near a sand pit were developed after the operations began. Schneiter stated there were some cases where there were residences first. Schneiter stated the Planning Commission has to make a decision based on fact and so far no factual information has been presented.

Karen Smalley, asked what this would do to their addition. She stated they already could not sell their homes.

There was a discussion amongst members of the audience.

Wethington stated now is the time for the applicant to rebut any of the comments made and no new items should be brought up at this time. Hill stated that the Division of Water Resources has to approve the proposal before they will be issued a permit to begin the sand extraction. If it is not approved, they can not operate. Hill stated Cornejo could not allow water to drain into the sand pit during construction. He stated the area had to be graded so that the water drains away from the pit and a drainage plan must be approved before they can begin their operation. He stated a drainage plan does not need to be submitted until a conditional use permit is obtained. Schneiter asked if Hill know the decibal ratings of the pumps. Cornejo stated he did not have that information, but they are required to meet certain standards. Schneiter asked if Cornejo would agree to restricted hours of operation. Cornejo responded yes within reason.

Wethington stated now is the time for the public to rebut any comments made and asked if anyone would like to speak at this time. There was no response.

Wethington closed the public comment portion of the hearing and read the criteria the Planning Commission had to follow when making their decision. Wethington opened to the floor to Commissioner's comments. Dickerson stated members of the Planning Commission are appointed and have a set of rules they must go by. He said he would never give up the battle when it comes to the elected officials. White stated the residents have the opportunity to gather factual information before they go before the Metropolitan Area Planning Commission. He said he does see the residents' concern with traffic. He stated the Planning Commission could recommend this operation not be allowed but Sedgwick County has the final say. White stated the Planning Commission had to make a decision based on fact and not on opinion. Schneiter stated that the Commission hears a lot of arguments that a change in zoning or other items will affect property values negatively. He said the homes on Winchester are manufactured homes and when that went through every one said their property values would go down, but that has not

been the case. He said more expensive homes have been built in the area since. Schneiter stated that people don't like the operation, but if we continue to progress, we need it. Schneiter stated that the street does need work but that provision is being included in the conditional use permit. Schneiter stated the proposal is appropriate for this site.

Motion by Schneiter

Second by White

To recommend approval with the addition that a five foot berm be included outside of the fence, that the trees on the south side remain, and to ask the County Engineer to reduce the speed limit.

White stated he feels for the residents but a decision has to be made based on fact. He stated the County would have the final say.

Wethington nay, Black nay, Bradshaw nay, Dickerson yea, Grether nay, Parton nay, Patnaude yea, Schneiter yea, White yea

Motion does not carry.

Wethington called a ten minute break at 9:47. Wethington called the meeting to back to order at 9:56 p.m.

Under Special Order of Business was a public hearing to consider a general revision to the zoning ordinance to revise sections of the zoning ordinance that pertains to signs. Wethington asked if any Planning Commissioners had any outside contacts regarding this case. The Commissioners responded no. Wethington asked if any member of the Planning Commission had a conflict of interest in this case. There was no conflict of interest. Wethington asked if any member of the public wished to speak regarding this case. There was no response.

Motion by White

Second by Black

To approve the general revision to the zoning ordinance

Wethington yea, Black yea, Bradshaw yea, Dickerson yea, Grether yea, Parton yea, Patnaude yea, Schneiter yea, White yea

Motion carried.

Under New Business was members of the Planning Commission considered a memorandum from the Haysville Historic District Committee regarding a request to purchase lighting for the Historic District. Schneiter asked if any money set for parks could be used. Millspaugh stated it was her understanding that the Park Board has designated their money for the proposed skate park.

Motion by Schneiter

Second by Parton

To recommend Council approve the purchase and installation of the lights in the Historic District.

Wethington yea, Black yea, Bradshaw yea, Dickerson yea, Grether yea, Parton yea, Patnaude yea, Schneiter yea, White yea

Motion carried.

Millspaugh stated that none of the other items on the agenda were action items and could be placed on the next agenda.

The meeting of the Haysville Planning Commission adjourned at 10:08 p.m.