

LINCOLN COUNTY PLANNING BOARD

Meeting Minutes

April 17, 2012

1. 5:35 – Meeting Called to Order by Board Chair,

Present: Joe Kelly, Bonny Peterson, Frank Dierman, Ted Clarke, John Damon, Mark Romey

Staff: Kristin Smith

Not Present: Dave Johnson, Matt Bowser, Paul Tisher

2. Approval of Minutes – November 15th was moved by Frank, seconded by Ted. Bonny moved to approve March 20th with corrections.

3. Public Comment On Non-Agenda Planning Board Items

4. Agenda

a. Lakeshore Permit – Boyke (Bull Lake)

Kristin presented the staff report and conditions for the application for a dock and boat lift noting that it was a pretty low-impact project. She recommended approval with standard conditions. Bonny asked if the lakebed was gravel or silty. The applicant responded that it was gravelly. Ted moved to recommend approval with the conditions as presented in the staff report. Bonny seconded. Frank asked how it was going to be secured to shore. The applicants stated that there were aluminum posts in the water, but that it would not be anchored to shore. They also stated that they may not be adding the boat lift, but they would likely be adding a slip instead to the dock. *Motion passed.*

b. Preliminary Plat Subdivision Review

i. Open Range Lot 4

Kristin stated it was similar to Kiowa Hill 5, 6 & 7 and that the applicants were bringing the property into compliance. In this instance, the issue had been sent to DEQ Enforcement a couple of years ago and they have issued their order to the owners that they have to have their project reviewed by the local governing body. The proposal is for 4 RVs on one lot with community water and septic systems.

Frank asked how this project was different from Kiowa where each unit had to have its own septic. Kristin stated that these owners proposed a shared system, which is preferred.

Kristin stated the amended covenants were signed by all the original owners of the 4-lot Open Range to allow for RVs.

There was a letter from an adjacent property owner that was sent to DEQ, since they were doing the enforcement, which outlined several complaints about the project.

Frank asked if there was some kind of inspection for how a system was installed. John stated that no, the local Health Department issues the permit for installation and the property owner is supposed to install it that way.

Kristin again talked about the criteria by which subdivisions are reviewed and that unless a subdivision creates an impact that is so egregious that it cannot be mitigated, subdivisions are typically approved with conditions.

There was some more discussion about DEQ's role in subdivision review.
(Multiple simultaneous conversations – inaudible)

Ted relayed his experience with Maricopa County Arizona, which forbids permanent RV sites. He likened it to a tax base issue. Unless the County develops an ordinance to prevent the kinds of projects we're seeing or zoning, there's not much reasoning to deny it.

Frank moved to recommend approval of the subdivision with conditions as presented by the Planning Department. John seconded. Motion approved.

ii. Kiowa Hill 5, 6 & 7 (*heard first on agenda*)

Kristin presented the proposal and explained that it was being reviewed as though it was a subdivision creating new lots, but it is a proposal to have multiple units (2 RVs) on each of the three lots. The units had already been placed on the lots in violation of the original approval. The applicants were notified of the problem and they proceeded with the compliance process. The first step was to have the covenants changed because the existing covenants would not have permitted the proposal and the County tries to avoid knowingly reviewing projects that violate private covenants. She stated that there would be a public hearing the following day with the commissioners.

Kristin refreshed the Board of the original subdivision, which was an 11 lot subdivision to be filed in 2 phases – Phase I, Lots 1-8 having already been filed. She noted that the additional units would necessitate upgrades to the road serving the lots, but that the Fire Department did not identify any other hazards. She discussed the mixing zones for the septic systems and the new law that was adopted last year that all mixing zones have to be contained within the boundaries of a subdivision. Some comments from the neighbors had been received with questions about septic systems and covenants. Kristin noted that the sanitarian had provided comments regarding the septic systems and that the applicants had to prove that they could meet the requirements.

Derri Massey introduced herself and her husband and daughter as owners of Lot 5 and one of the applicants. She commented that her representative, Brian Launius, who had prepared the submittal stated that it was likely doable to have the septic systems in the general location as shown with some modifications.

Derri gave some background to how they came to place the RVs on the property – that it was based on how the lots were marketed.

Ted asked if any of the lot owners could have an RV Park on it in addition to a home. Derri explained that there was always an understanding that guest RVs could come and go on a temporary basis, but that RV Parks as

conventionally viewed are not allowed. Derri explained some of the relationships and perceptions of other lot owners and neighbors. Kristin explained the review process is the same for subdivisions that are creating new lots as for “subdivisions” that are creating *spaces*. That local government has to treat the additional units as additional units regardless of who lives in them even though some people say the additional unit is for family members. She stated that the local government cannot get into the business, nor should it, of monitoring *who* is living where.

There was discussion about the DEQs requirements for additional units on one septic system and at what point they comment on projects.

Bonny asked about the covenants and how they were changed with only 3 lots. Derri stated that they worked with an attorney to change the covenants and believed they were changed in accordance with the original provisions for doing so. She stated that she and the other applicants had presented the other owners, by certified mail, with the proposed changes.

Joe stated he could see both sides of the argument – that those who bought in the subdivision thinking it was for single-family homes, but those who bought in the subdivision having been told that it was “RV-friendly”.

There was some more discussion about the covenants and how they are written and who can change them. Kristin said there is no universal requirement for covenant format and voting rights.

Kristin finished presenting the staff report and the criteria by which a subdivision is reviewed. She stated that she recommended approval based on the findings of insignificant impacts with 3 conditions of approval, including upgrades to the road. She also noted that there was a comment received by an area property owner that asked the Board to consider adding a requirement for quiet hours.

Joe asked for a motion. He commented that it would probably end up in court anyway. Ted said DEQ should look at bigger septic systems to allow for additional units (i.e., a 4-bedroom designed septic vs. 3-bedroom). John noted that DEQ has their rules and it’s “not that simple”.

Derri stated that she would do whatever is legal and allowable. She apologized that they got into the situation they are in, but want to make it right.

Kristin stated that she was starting to ask at the pre-application meeting whether a proposed subdivision intends to provide for guest house or additional units; that the applicant should prepare their submittal with that in mind so as not put it off on the future lot owners.

Ted noted that it boiled down to who has power over the covenants.

Frank moved to recommend approval with conditions presented by the department, Mark seconded. Motion passed 5 ayes, 1 nay.

c. Letter in support of Stimson Conservation Easement

Kristin had presented the Board with a draft letter to review to send to the Trust for Public Lands regarding the Stimson conservation easement, based on the Boards discussion/direction in November. Joe read the letter. Everyone agreed the letter represented their wishes.

d. Draft Sand & Gravel language for Growth Policy

Kristin had sent the Board the memo from 2010 that provided some background information on the geology of Lincoln County and a memo that offered some recommended language. She talked about the accompanying map which shows where all the existing permitted gravel pits are located since there is a lack of good information on the geology.

Joe asked if this would have to go through a public hearing process. Kristin stated yes, since it would be an amendment to the Growth Policy. She stated that Paul had asked to get back on this topic because there were a lot of pits in the permitting process and there were concerns about water table for wells.

Ted wanted to know if having the language in the Growth Policy would allow the County to prohibit them in certain places. Kristin said no, only zoning could do that. But by addressing it in the Growth Policy, the County would then have guiding language for development of any regulations for gravel pits.

Kristin said the next step would be to schedule hearings to amend the Growth Policy and let the Commissioners know that it was moving forward. She also suggested that it could be sent to gravel pit operators for their input ahead of time.

Everyone agreed it should go forward.

There was some discussion about the Natural Resource Plan and how that tied into the Sand and Gravel section. Kristin stated she had not heard from the committee for almost a year.

5. Planning Department Report

Kristin let the Board know that the It's A View subdivision was approved by the Commissioners. She also stated that there were four Board members whose terms were expiring: Dave, Mark, Paul and Joe.

6. Planning Board Comments And Questions

Ted asked for an update on the Steed/Sanguine dock issue. Kristin delivered a summary. Joe announced that he would be resigning the Board due to health reasons.

7. Next Meeting: May 15th

8. 7:30 Meeting Adjourned