

**MINUTES OF THE HUGHES COUNTY  
PLANNING & ZONING COMMISSION  
Hughes County Commission Room,  
Hughes Co. Courthouse, Pierre, South Dakota  
April 24, 2017, at 5:30 PM**

**Members Present:** Tom Rounds, (Chair), Brent Pries, Anissa Grambihler, Les Stewart, Lee Axdahl, Bill Johnston, Norm Weaver.

**Staff Present:** Kevin Hipple and Lee McCurrin

**Guests Present:** Helen and John Tuveson, Ken Weinheimer, Cheri Bartlett, Charles Bartlett, Derek McTighe, Michael Bollweg

Chair Rounds called the meeting to order at 5:30 PM.

**Pledge of Allegiance:**

**Approval of Agenda:**

**Grambihler moved to approve the Agenda for April 24, 2017, Planning and Zoning Commission meeting. Motion seconded by Stewart. Motion carried unanimously.**

**Election of Officers:**

**Axdaahl moved to keep Tom Rounds as Chair. Motion seconded by Johnston. Motion carried unanimously. Brent Pries moved to nominate Lee Axdahl vice chair. Motion seconded by Grambihler. Motion carried unanimously.**

**Approval of Minutes:**

**Grambihler moved to approve the Minutes of the October 24, 2016 Planning and Zoning Commission meeting. Motion seconded by Axdahl. Motion carried unanimously.**

**New Business:**

05:40 PM - Public Hearing to consider the rezoning and plat of Lots 1 and 2 of Rita and Cathi's Subdivision in the E1/2NE1/4NE1/4 and the W1/2NE1/4NE1/4 of Section 30, Township 112, Range 80. The petitioners are John and Helen Tuveson for Ivan Venner and Rita Koch

McCurrin summarized the project: Ivan Venner wants to plat the 20 parcel into two ten acre lots to sell. The parcel is currently zoned AG B. In order to bring it into compliance, the parcel needs to be rezoned to AG B2. In the process it was discovered that Rita Koch's property adjoining to west was also zoned AG B so she is requesting AG B2 rezoning. Rezoning would bring both parcels into compliance with our ordinances. Access to Lot 1 would be via a shared approach with the Koch property and Lot 2 would have access of 282nd Avenue. McCurrin stated staff was willing to approve plat and rezone. Kevin Hipple added that an adjoining landowner had commented on access from 282 Avenue.

There was a brief discussion clarifying the lot configuration, access to the lots, who maintains 282 Ave., what road standards were followed, and setbacks.

There was also discussion of the comments received from the adjacent property owners. No opposing comments were received. Helen Tuveson said 282nd Avenue serves five lots off Cyrus Place. There was no further public comment.

**Grambihler moved to approve the rezoning and plat of Lot 1 and 2 of Rita and Cathi's Subdivision Motion seconded by Stewart. Motion was approved unanimously**

06:15 PM- Public Hearing to consider the rezoning and plat of Lot 1 to 4, Horseshoe Ridge Estates in the SW1/4, W1/2SE1/4, NE1/4SE1/4 and the W1/2SE1/4SE1/4 of Section 22, Township 112, Range 80. The petitioner is Ken Weinheimer.

Kevin Hipple summarized the project: Weinheimer is proposing to plat a 300 acre parcel into 4 lots, create a gravel access road and sell the eastern 80 acre parcel, Lot 4, to another owner to develop as rural housing lots. Weinheimer would continue to farm the remaining property.

The current plat proposal shows a cul de sac of over a mile long. Our ordinance limits cul de sacs to 1000 feet in length. Staff has asked that the road be connected to some other road to give two ways in and out, either return to 284th Avenue or cut across the neighbor's property to Highway 1804. Highway Superintendent Mike Meyer would prefer that the road serving this development intersect with 284th Avenue on the section line at 200th Street. There is a deep draw and a tree belt on the eastern end of the section line at 200th Street which would pose a challenge to development. That is where the road is shown as going up and around both the draw and the trees. According to Weinheimer's engineers, the grading plans for the road would only have limited ditches and gravel surfacing. Those specifications are less than County Subdivision road standards. Our subdivision ordinance requires the same construction standards for both public and private subdivision roads. The road as designed would be adequate for a driveway, but not to serve a multi home subdivision.

Since there are only four lots in this plat, it qualifies for a waiver of two of the three plat approval steps. Staff would be willing to support a waiver for the covenants, soils tests and a PUD on Lot 4 until a future developer subdivides Lot 4 or a building permit is requested for that lot. But we would still recommend a grading plan for the road and a certificate of intent to comply with the erosion control standards. We have not seen either of those documents at this point.

The remainder of the plat comments submitted by staff have not been addressed at this point.

Staff does not recommend approval of this plat as submitted. Since the plan may change, we also can't recommend approval of the rezoning at this time, although we would support the rezoning concept in this project.

Since the owner appears to be in a hurry to proceed with this plat, the surveyor has prepared a second plat which only has the single 80 acre lot on the east side of the property which Weinheimer intends to sell. That lot would have access via the section line to the north and to the west and would be large enough to comply with County ordinances and would not require rezoning. The access would not be improved access, however. If the developer proceeds with this plat, I expect they would request a waiver

to the three step plat process and would like to consider this a final plat. Staff would agree with that request. The plat would have to address the requirement for an additional 17 feet of right of way along section lines.

Discussion: Derek McTighe commented that the ultimate goal of this project is to develop the 80 acre parcel; he also stated that the plans are to build roads to subdivision standards and address the exit issue. The hope expressed by the engineer and owner was to do the plat of lots 1 to 4, sell lot 4, and not let any development of lot 4 occur until road issues and grading plans are addressed, as a means to get the development going. McTighe also explained future road options and rezoning and the reasons for not wanting to get too far on road grading and construction plans, he explained that a possible option was being looked into with adjoining owner to possibly connect with Hwy 1804. The other option is to loop the exit portion of road back to 284<sup>th</sup> Avenue. McTighe felt that some guidance by commission would be helpful.

Hipple reminded the planning commission that even if all other criteria were approved, staff would still be opposed to starting the road north of section line. Staff is concerned with platting a road as a lot, and feels strongly that that particular issue should be resolved before any development could occur. Johnston commented that usually issues that are unresolved before the start, stay unresolved. Weaver confirmed with the engineer and owner that the ultimate goal of this plat was to subdivide lot 4. McTighe stated that eventual goal is 13 lots on Lot 4.

Weinhiemer commented that a partial goal of the road was access to adjoining property, to the south of Lot 4. This road would greatly improve that landowner's access to his property. The owner of that southern parcel currently accesses his property across Weinheimer's property and around the draw and shelterbelt. The proposed road would follow a similar path. . Hipple commented that staff would not oppose going around the draw and shelterbelt but would prefer the road start on the section line.

Charles Bartlett commented that concerns over hunters and livestock were the prime reason to keep the road off the section line. McTighe reiterated their intent to design the roads to subdivision standards, and again asked for guidance from the planning commission. Discussion continued about road access and the fact that lot 1 was indeed a road and needed to be treated as such. Rounds asked Weaver if the County Commission would have issues with the plat. Weaver stated yes many issues, including drainage, road grading, and stated that just platting Lot 4 alone would be doable as provided. Weinheimer reluctantly agreed. McTighe referred to this meeting as a sketch plat phase for the planned development. There was more road discussion and more discussion of the view and the best usage of lots.

Rounds asked about the southern quarter and what kind of issues will come up in future. Hipple stated that the road superintendent feels that eventually, if road ended at Highway 1804, that this would be a primary access for the residents of western 200<sup>th</sup> Street. Weaver asked for a sketch of lot 4, saying that lot numbers and sizes may impact the road design. Weinheimer showed the planning commission his sketch plat and vision. McTighe asked for clarification on road issues and sketch plat. Weaver was concerned with development of the 60 acre parcel to south and road usage and how that affects future owners and road developers. Weinheimer confirmed that intent.

Cheri Bartlett asked for clarification on the outstanding issues, with 3 questions; subdivision road standards, section line access and 2 exits for access road. Hipple stated that those are initial concerns, with many other concerns needing to be answered by the future developer. Bartlett asked for more

clarification. Grambihler stated that commission needs to be consistent with other developers. Charles Bartlett asked for possible extra meetings to speed up the process. Rounds said monthly planning meetings are already planned. Hipple explained the platting process and time frame. Weinheimer explained that he didn't want to be a developer, just wants to do the road, and get his sale done. Weaver stated that if Weinheimer created a road district, he would essentially be out of the process, with the exception of signing documents and things of that nature. Weinheimer stated that he is agreeable to just doing the Lot 4 plat, but wanted more confirmation on the road location. His concern with access on the section line is hunters basically hunting in the right of way or sitting along the road. Grambihler stated that you can't stop someone from setting by the road and looking. Hipple mentioned the public road dedication on plat certification.

Weinheimer stated that he was ok with the separate plat of Lot1 of Horseshoe Ridge Estates. Grambihler asked for clarification on the rezoning. Hipple stated the Lot 1 parcel is large enough that it does not require rezoning. Weaver asked for clarification on access. Hipple stated that there is access from west section line and north section line. He said the access is not improved, but it is not the County's responsibility to provide improved access. The planning commission indicated they were not comfortable with proceeding with the plat of Lots 1 to 4 of Horseshoe Ridge, but would be willing to proceed with the plat for the single Lot 1 only.

**Axdahl moved to approve the plat of Lot 1 of Horseshoe Ridge Estates, leaving the zoning the same. Motion seconded by Grambihler. Motion approved unanimously. No action was taken on the plat of Lots 1 to 4 of Horseshoe Ridge.**

7:15 PM- Public Hearing on Wind Farm Setback Ordinance Change

Kevin Hipple summarized: Essentially what staff is requesting is guidance on what direction to go, if any, to address setbacks for Large Wind Energy Conversion Systems (LWECS). Rural Hughes County resident Michael Bollweg contacted staff and said that he and other landowners in Eastern Hughes County had been contacted by a representative of a wind energy company, about his interest in leasing ground for wind towers. After reviewing current county ordinances and doing further research he has suggested that the county increase the setbacks for wind towers.. Staff is asking, as there are 2 sections in the ordinance now, do we address both Small Wind Energy Conversion Systems (SECS) as well as LWECS, or do we leave SECS as is and deal only with LWECS. Grambihler noted that SECS are essentially private owners, powering their own properties. Hipple confirmed that and clarified that you could also have 4 adjoining landowners do SECS together. Hipple is only aware of 1 active SECS in Hughes County.

Hipple stated that there is a lot of interest statewide in LWECS. There are many sources of information available. According to one source, 14 counties have a 1000' setback from residences, 2 have setbacks of 3 times tower height, 1 county at 1300', and some counties have no setback ordinances. Hipple also noted that county ordinances end at county lines. Walworth County is considering a two mile setback, Lincoln County has lowered noise output limits, but deferred the setback ordinance. The current Lincoln County proposal is a one half mile setback. Current Hughes County ordinance is 1000' for occupied property and 1.1 times tower height from ROW and property lines. Johnston brought up several considerations in regards to LWECS, including shadow flicker, blade noise, infrasound, other health effects, and ear damage due to low frequency noise. Rounds brought up aesthetics and property values and asked if we should be addressing that also. Hipple offered the possibility of reclassifying AG B to prohibit LWECS. Johnston was concerned with later property classifications, it was stated that the

grandfather clause would take effect. Weaver commented that it is virtually impossible to get easements for new transmission lines and basically have to reuse old easements for new towers. He also said his research has determined that the half mile setback seems to be the average from inhabited structures. Stewart asked about Hyde County and was told Hyde County has no ordinances. The PUC was brought up; PUC says this is county control issue. They only regulate wind farms over 100 megawatts. There were also questions on any financial issues with the current proposal.

Michael Bollweg was introduced, and he handed out information to the planning commission. He then informed them about the process that brought him to meeting, including attorney meeting and his due diligence. The developer wants and needs to install 300 towers, according to Bollweg. Bollweg would like to see the setbacks at 1 mile for non- participating property and 2500' from property lines. Axdahl wanted to know how the county came up with their setback numbers. Hipple stated that when the ordinance was introduced the county used PUC guidelines, which are no longer in use. There was discussion of variables including lighting, noise, dust on roads, road compaction, and farm ground lost. There were also general discussions on energy contracts, setbacks nationwide, maintenance over time, length of contract, end use, who pays taxes, developer promises and how to bind them to energy owner rates. The planning commission expressed concern over lighting annoyances. There was also discussion about appearances, propeller speed, accidents, and damage distances in the case of blade failure. Weaver suggested the County Commission could do moratorium on LWECS while County studies setbacks and other issues.

**Grambihler moved to ask county commission to create a Moratorium on LWECS until the county has addressed setback issues. Motion seconded by Stewart. Motion was approved unanimously. No further action was taken.**

**Old Business: None**

#### **Summary of Previous & Future Projects:**

- The Rezoning and Plat of Tract 2 of Brandt Subdivision in the W1/2 NW1/4 of Section 9, Township 110, and Range 78 was approved by the County Commission at their meeting on November 21, 2016.
- The Plat of Lot 3R, Venner's Peoria Heights Addition in the NW1/4NE1/4 of Section 30, Township 112, Range 80 was approved by the County Commission at their meeting on November 21, 2016.
- The plat of Bowers Family Cemetery, a subdivision of Bowers Tract 1 and the SW1/4, all in Section 25, Township 108, Range 74. The County Commission approved the plat at their meeting on November 21, 2016.

**Meeting Adjourned at 7:45 PM**

**Pries moved to Adjourn. Motion seconded by Grambihler. Motion approved unanimously.**

**Next Meeting** - The next meeting is scheduled for Monday, May 22, 2017.

*Minutes by Lee McCurrin*

*HCPM170424*