

MINUTES OF THE MEETING OF THE LINCOLN COUNTY PLANNING COMMISSION HELD IN THE LINCOLN COUNTY COURT HOUSE ON THE 9TH DAY OF JUNE 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, Zak Eickhoff, Mitch Moorhead

MEMBERS ABSENT: Marlene Flaming, Roger Merritt

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. Rayburn moved and Stickelman seconded the motion to approve the order of the agenda. Roll call vote: "Aye": Koch, Rayburn, Stickelman, Hansen, Bain, Eickhoff, Boden Pieper, Moorhead. "Nay": None. Absent: Flaming, Merritt. Motion carried.
3. Pieper moved and Moorhead seconded the motion to approve the minutes of the March 10, 2020 meeting. Roll call vote: "Aye": Koch, Rayburn, Stickelman, Hansen, Bain, Eickhoff, Boden Pieper, Moorhead. "Nay": None. Absent: Flaming, Merritt. Motion carried.
4. 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 East 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.

Chair Koch opened the public hearing and 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.

Judy stated that 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. 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). Planning Staff has no objections to this application if an amended site plan is submitted showing a separate and distinct ingress and egress to the site as stated in the Lincoln County Zoning Code Section 8.14.06. She contacted the applicant's representative and

asked for an amended site plan. Planning Commission could make a decision on the condition the site plan is submitted, or table it, there are other options.

Ryan Stearns was present via Zoom to represent the application. They did not get the amended site plan. They plan to do exactly what NUStar has. Widen the drive and put barricades to have a designated entrance and exit.

Judy stated the code requires distinct ingress and egress that are separated. The new site plan was requested on Wednesday or Thursday.

Kevin Brott, 3302 So. Oak, was present and stated he owns property on Meadowlark Ridge and was never notified. Kaneb Road is already tough to keep maintained. Truck traffic will beat up the road. He is concerned about bad roads and the smell. Any bulk plants he has been to have not been very clean. He feels soy diesel is a great fuel but this isn't an appropriate place to put it.

Judy explained that the county is required by state law to put a notification in the paper 10 days prior to the public hearing. Certified letters are sent out to people within 300' so at a quarter mile away Mr. Brott probably did not get a letter.

Shelia Mahler, 16 E. Kaneb Rd., was present representing her husband Brian and herself in opposition to the application. Her husband suffers from various physical conditions and they purchased this property in 2013 to avoid pollution and provide tranquility for relief in association with his disability. Their concerns are the proximity of the bulk plant to the existing pipeline and severity of fuel accidents, impact to soils and groundwater for fuel accidents. They are also concerned about increased pollution and emission, traffic, white noise levels, increased accidents on Hwy. 83 due to increased truck volume, road quality and safety of Kaneb Rd. and Hwy. 83 and response time of emergency personnel due to increased volume. Another concern is the impact of future property values. She asked several questions such as why adjacent property owners were only notified 11 days prior to the notice of this hearing, what is the property currently zoned for, what was the date of the zoning change, were all property owners notified of the change, what about environmental impact, do they want to start an industrial trend in the area. She is not in favor of the site chosen for the plant. Her suggested solutions are to move the tanks to an area already zoned for this type of business in a non-residential area, place tanks with minimum impact to traffic volume or move them to a different property.

Ms. Mahler stated she understood the whole area was zoned A-3 and would like to know when the zoning was changed.

Judy stated that whole area was zoned I-1 at least in 2012 when the entire county was rezoned. According to Nebraska State Statute when rezoning an entire county, notifications are sent to the paper and individual notices are not sent out.

Ms. Mahler stated they purchased their property in 2013 and were aware of the NuStar tanks but they are far enough away and closer to Hwy. 83.

Judy read an email she received from Dave Perrigo. He has several concerns: He was not given proper notice to attend or prepare for the meeting, his property across the road from the facility was purchased for use as a quiet home not filled with diesel fumes and noise/dust from truck traffic, diesel fumes are a known carcinogen, the value of his property and others in the area will be severely diminished and resale would be difficult, the rushed nature of the meeting and improper serving of notice makes it difficult to believe it is being held in the best interests of the current property owners.

Chair Koch accepted Exhibit 1 (statement from Shelia Mahler) and Exhibit 2 (email from Dave Perrigo).

Brian Mahler, 16 E. Kaneb, was present via zoom. 16 E. He stated that he spoke with the fire chief who said if there was ever a fire at this proposed site they would have to apply foam which is a known carcinogen. He's concerned about it polluting his well in the ground. He proposed that facility be put on Hwy. 83 or next to the

landowner's house because there are less residents there. There are 18 wheelers going to Kaneb now at 70 mph because there are no posted speed limits.

Douglas and Deann Brott, 18002 S. Meadowlark Ridge, 1000' south of the proposed plant, were present,

Mr. Brott stated they started the development directly south around 10 years ago with the ambition of keeping it in line with residential properties. He thought the property to the north was still agricultural and was unaware of the rezoning in 2012.

Ryan Stearns, Hewgley and Associates, was present via Zoom representing the owner. Currently at NUStar they hold about 4 times as much diesel fuel as they are planning at the bulk plant. The property is zoned industrial right now. They have worked with the Commissioners to keep up on that road. They feel it's safer coming off of Kaneb onto Hwy. 83 than currently what NUStar has. They have to go through EPA regulations for containment of spills. The applicant does upkeep properties. They are expecting 10 to 12 trucks per day. They are planning to move out of town so they don't have to go downtown. The fire department would have to do the same thing at NUStar as they would have to do at this proposed facility. This facility is not a production facility, it's a blending facility.

There was discussion regarding maintenance of Kaneb Rd. and the need for the second facility since Sapp Brothers already has a facility on the north side of town.

Hansen asked how far the facility is from West Kaneb Rd. and how far the tanks are from the entrance onto Kaneb Rd.

Mr. Stearns stated they will try to push the tanks as far on the north of that property as they can while still being careful because of the NUStar pipeline.

Pieper stated he does not like the site plan.

Mr. Mahler suggested they move the plant one road over and there wouldn't be problems with NuStar or residents in the area.

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

Judy stated that Planning Commission has several options: vote in favor, vote to deny it, table the decision and request more information or add conditions that are feasible.

Chair Koch stated there are some problems with the application such as no map with ingress and egress, the road is a problem, and even though the property is zoned industrial, he has concerns about the homes out there.

Pieper agreed that he would like to see the ingress and egress on the site plan. He has compassion for the homes out there but they should be aware of what the land around them is zoned when they move there. This application seems to meet the criteria for that zone. The same exact use is out there and it would be difficult to deny something similar. He has concerns about roads but the Superintendent says they're fine. He would like to see a plan for the road. The county needs to make sure they will provide an adequate road for this industry and Carla stated they will. He would like to see the setback from the road to the tanks. Perhaps they could shove them to the north to give more relief to those property owners.

There was discussion about traffic increasing over the years and it was mentioned that the area is zoned industrial so this seems to be the right area for this type of business. It was suggested that the county should have some proposal to improve or take care of that road.

There was more discussion about tabling the application and asking for certain information.

Pieper moved and Rayburn seconded the motion to table the discussion until the July 14, 2020 meeting and request the applicant provide a more complete site plan that shows the distance from their property to their tanks and the offset from Kaneb Rd., the length of driveway and the driveway division of ingress and egress along with a visit with Carla O'Dell and joint plan for maintenance and build up if needed for W. Kaneb Rd. Roll call vote: "Aye": Koch, Rayburn, Stickelman, Hansen, Bain, Eickhoff, Boden Pieper, Moorhead. "Nay": None. Absent: Flaming, Merritt. Motion carried.

Judy explained this application will be discussed at the next meeting and it will be the Planning Commission's choice whether or not to reopen the public hearing.

5. Old Business. There was no old business to be discussed.

6. New Business. There was no new business to be discussed.

7. Adjourn. Chair Koch adjourned the meeting at 6:43 p.m.

Submitted by,

Michelle Bain
Recording Secretary

PASSED AND APPROVED _____
Date

Michelle Bain
Recording Secretary