

MINUTES OF PLANNING & ZONING COMMISSION
OCTOBER 21, 2004
BUFFALO COUNTY HIGHWAY DEPARTMENT
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:02 o'clock P.M. with a quorum present on October 21, 2004 at the Buffalo County Highway Department Building in Kearney, NE.

Agenda for such meeting was regularly posted as required by law. Present were: Francis "Buss" Biehl, Karin Covalt, Gene Jameson, Rick Pope, Paul Steinbrink and Craig Wietjes. Absent: Marlin Heiden, Leonard Skov and Loye Wolfe. Also attending were Deputy County Attorney Andrew Hoffmeister, Buffalo County Zoning Administrator LeAnn Klein and approximately 90 members of the public.

The public forum was opened at 7:03 P.M. There was no one present to speak. The public forum closed at 7:03 P.M.

Chairperson Pope announced that the hearing for Theodor Asay would be held first.

Chairperson Pope opened the public hearing at 7:05 P.M. for a change of zoning request from agricultural to agricultural-residential filed by Theodor A. Asay for property described as a tract of land being part of W ½ NE ¼ NW ¼ of Section 25, Township 10 North, Range 16 West of the 6th P.M., Buffalo County Nebraska.

David Malone, representing Mr. Asay, spoke to the Commission what their intentions are. Because of high health care costs, they want to sell off 18.23 acres for additional homes. This is on the south side of 145th Rd east of Hwy 10. This area already has numerous homes in this area and is adjacent to AGR line already. He presented a survey that had been done for 18.23 acres of this property.

Hoffmeister asked how many houses they would be building and how far it was from a hard-surfaced road. They would only be building one house at this time and it is ¼ mile from Hwy 10.

Klein stated this is approximately 350' from another property that had been re-zoned last year and is just on the edge of the AGR line.

Hoffmeister also explained to everyone the process of the change of zoning request.

David A. Campbell, a neighbor, asked how this would affect his land and if he would have to re-zone also. The Commission told him he would not have to re-zone unless he wanted to.

Pope closed the hearing at 7:15 P.M.

Biehl asked how many homes would be at this location.

Moved by Steinbrink, seconded by Covalt to recommend that this application be forwarded to the County Board to rezone from agricultural to agricultural-residential a tract of land being part of the Northeast Quarter of the Northwest Quarter (NE ¼ NW ¼) of Section 25, Township 10 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as being the West 600' of the Northeast Quarter of the Northwest Quarter, containing 18.23 acres, more or less, of which 0.45 acres, more or less, are presently being used for road purposes on the north side with the following condition:

1. To approve rezoning request that only two homes be built at this site

Voting yes were Steinbrink, Covalt, Biehl, Jameson, Pope and Wietjes. Voting no: none.
Absent: Heiden, Skov, Wolfe. Motion passed.

Chairperson Pope opened the next hearing at 7:16 P.M. for a special use permit filed by Fort Kearney Shooting Sports Association for the Northwest Quarter of Section 1, Township 9 North, Range 15 West of the 6th p.m., Buffalo County, Nebraska to build a public, recreational and instructional shooting ranges and supporting facilities.

Ron Grapes representing the Fort Kearney Shooting Sports Association told the Commission what their plans are. The Association originally started out in 1940 as Fort Kearney Wildlife Club on March 1, 1940 to promote extending wildlife and enhancing wildlife habitat and they were located at the area which is now Cottonmill Recreation Area. The area was closed in 1988 which is now the children's zoo. They were told by the Parks and Rec that they could continue and re-locate the facility which never happened. Their purpose is to develop a modern and complete complex to nurture, support and encourage many disciplines of shooting activities. These include shotgun sports such as trap, skeet and sporting clays, archery, paintball, pistol and rifle sports and 4-H air rifle sports. The emphasis will be on activities to educate, train, and encourage youth involvement in a complete range of outdoor activities, conservation and community participation. They would accommodate law enforcement officers which currently do not have an area in Buffalo County to practice. There is a need for this since there are many people in South Central Nebraska that don't have an area to practice. This area would also establish significant wildlife habitat areas. About 30-35 acres will be used for the clubhouse and shooting area and 120-140 acres will be returned to native grasses. They currently have 200 members and there has been interest from National Guard members. They are working with Miller & Associates on this project. Safety is the #1 criterion. This facility will meet those standards. There even will be a playground for children. Some issues need to be addressed:

1. Private funds will be used, not tax dollars
2. Need a buffer between the neighbors and the shooting range.
3. Understands there has been a petition, they also could submit a petition with 1,000 names but does not think that is relevant but will submit a copy of their petition.

Hoffmeister had the following concerns:

1. Would they have a problem in having the facility reviewed bi-annually?
2. Hours of shooting?
3. Will there be on site caretaker?
4. Will black powder be used?
5. What caliber limit?

6. Will there be receptions at the clubhouse?
7. Will there be rules posted?
8. Will there be summer night leagues?
9. Will you have liability insurance?
10. Will there be clean up of lead?
11. Will there be a tree shelter belt and what size?

Grapes responded as follows:

1. They would not have a problem in being reviewed bi-annually.
2. They will have certain hours of operation.
3. Will leave space in clubhouse for an on site caretaker, each activity would have a chairman.
4. Black powder will be used.
5. They would have a 30 caliber limit.
6. The facility would be used by conservation groups, hunters' education groups and groups like that. Guns and alcohol do not mix.
7. They will be looking at other shooting clubs rules.
8. There probably will be lights and they won't be shooting a lot at night.
9. Yes they would.
10. Lead clean up is very simple to clean up. There are people who go around mining the lead.
11. They will have a shelter belt around property but it will take some time for it to grow. Some trees will grow faster than some.

Biehl asked about the amount of traffic and if this plan has been tried before. Grapes responded that area shooting events will not have all the people coming at one time but over a period of a couple of hours. There has been lots of interest from area law enforcement and National Guard members. Grapes said they had approached Kearney County for this but because of emotion and perception it was voted down.

Pope asked the following questions:

1. EPA regulations
2. Costs of shooting range
3. If land had been purchased
4. If Miller & Associates had ever designed a shooting range before

Grapes responded he was not aware of any EPA requirement, but if there are they will need to be met. The cost would be around \$1.5 million. They have some interest from a local business and will be asking for donations. They have a land purchase agreement with the owners of the property.

Jameson asked about the sound level if someone had been in war and noise would bother him. He also questioned the amount of traffic.

Grapes responded he doesn't think traffic will be a problem. As far as how sounds will affect a particular person, that is really a personal thing, and he really couldn't answer that. Grapes

responded sound is perception. You can let something bother you or you cannot let it bother you. Studies have shown that sounds of gunshots are between 30-35 decibels. He lives 3 miles from the railroad and some days he can hear the trains very plain. They will have trees around this area to buffer the sound. Sometimes you will need to accommodate what people need. You can find something to be offensive if you want to.

Public comments made were as follows:

Rex Benson – has moved mobile home north of site and will be living there. He is opposed to this because of the noise. He also gave a petition to the Commission. Hoffmeister clarified this filing is not a petition that is binding to the County Board which needs to be filed with County Clerk.

Max Drew - has property within ¼ mile and is opposed to this.

Richard Clark – owns 80 acres south and is 100% disabled. He was a medic in Vietnam and has a post traumatic stress disorder. Pope asked him if this is still a serious problem and he said he is still being treated for it.

Mrs. Jack Peterson – lives to north of property and is opposed to it because of cattle in area.

Wes Cunningham – submitted two letters which he read to Commission. He is on board of the shooting association and read letter from Robb Feed yard which is across from the Doniphan Gun Club. The letter stated that the gun club did not affect the behavior or feed consumption even when they have large shoots and the place is operating at capacity. He read another letter from Bill Curtis, Treasurer of the Ashland Gun Club. He also stated it had never caused any problems for the neighbor's livestock which are within ¼ mile of club. Pope asked if Mr. Robb was a member of the Doniphan Gun Club which Cunningham said he was not.

Linda Benson – shooting range would bother cattle.

Rod Van Fleet – hunts frequently and it does not bother cattle.

Roy Benson – why did they pick this quarter? Grapes responded that the area was well-suited and they were able to get an option. This quarter was very appropriate and accommodates this area.

David Heun – shoots in pasture and cows are not affected.

John Foss – there is need for facility for youth so they can learn how to shoot and shoot safely. He is a Boy Scout leader and it is difficult to find someplace to use.

Connie Love – this is quiet farming community and why not put this next to Meadowlark Golf Course or Yanney Park and more accessible to public.

Wade Clark – why didn't they check with adjoining neighbors first. Hoffmeister asked where he lived and he said he was brother to Richard Clark.

Terry Yendra – shooting range was close to Kearney and it was taken away and they are still trying to find a home.

Brent Steffen – asked if shooting area is centrally located. Pope responded the shooting area is to the west side of the property. He has a shooting area between ¼ mile and ½ mile from Hoffmeister property and he hasn't complained about it. He also has cattle in pasture adjacent to shooting range and cattle are not bothered by noise.

Ray Owen – shoots trap and has machine to recycle lead.

Betty Benson – owns land to the north and she did not receive notice from the Fort Kearney Shooting Association for the first meeting.

Billy Rayburn – was on the Board for Fort Kearney Shooting Association but got off since they farmed the land where shooting range is proposed. Did know that Association did try to contact all neighbors for the neighborhood meeting that was held on October 14 but they could never catch the Benson's at home so a letter was put in Rex's door. She has been the coordinator for Buffalo County 4-H shooters for many years. Kids need to be taught how to handle firearms safely. She referred to a shooting accident that happened to a Gibbon girl. This could have been prevented with a gun safety class. She kept track of all incidents with youth involving guns and none of these kids involved had ever taken a safety class. They use to be able to use the facilities at the fairgrounds but since the renovation of the fairgrounds, they are not able to use any of the equipment. The 4-H is under the University system and they have unused surplus equipment which is not being utilized. She has a letter from the University that this surplus equipment can be transferred to the Shooting Association if they have a facility.

Tom Rayburn – has been a 4-H leader for many years and has farmed this ground for 28 years. There is a 400 yard shooting range to the northeast of this property and this hasn't bothered the buffalo to this point. He has seen a lot of unwanted activity in this area when he has been farming. There is a real need for National Guard to have some place to practice. He has shot firecrackers in this area and has not had complaints in the past.

Joe Sobotka – does own property east of this area. He presented a copy of the list of all the neighbors they had contacted and said he had personally went to all the neighbors to contact them. He has lived in Buffalo County all of his life and has drove down county roads and has heard guns going off all the time. Mr. Clark does have trees around his property (submitted picture of Mr. Clark's property) and the Rayburns have shot guns off and he never has complained in the past. He also referred to Section 6.2 #1-7 of the zoning regulations; this is compatible with the area. Some of the area will be returned back to native grasses. It won't be detrimental to adjacent property and it won't depreciate the value of surrounding properties. It is compatible with the stated use and won't change the area. If the Shooting Association does not comply with the rules, the County Board does have the right to pull the special use permit. We do want to be good neighbors. The law enforcement in the area will also be able to use this

facility. Most important, safety is #1 and will be an asset to the community. There is a lot of emotion here and we need to look at what is good for the community. He introduced Rick Staly who is an appraiser.

Rick Staly – a real estate appraiser in the area. Based on what he has seen, it will not depreciate the property in this area.

Tom Gillming – has concerns of traffic and amount of dirt and number of accidents in area.

Amber Cunningham – is on board of Fort Kearney Shooting Association. Her Dad was also a POW and feels empathy for Mr. Clark. This will bring in lots of money to the community. Cabela's offers free hunting and education classes and keeps growing each year. They are running out of space and the need is there. These classes do teach kids respect and discipline. These kids that take these classes are not out shooting up road signs. Pope asked if she was connected with Cabelas and she did say she is a manager.

Joe Sobotka questioned Hoffmeister if these roads were public roads for everyone to use.

Steve Jensen – previously in law enforcement for 26 ½ years and there is a need in this area. He referred to the Caster murder trial where an expert had been brought in to determine how far away you can hear gun shots. The expert testified that it was less than ¼ mile that you could hear a gun shot. A well designed range is always clean and shooters will pick up after themselves. He noted the number of road signs that are shot at. He has shot at a range adjacent to the Archway for over 20 years and there never was a complaint. There is a definite need for law enforcement in Buffalo County to use a shooting range. Right now the officers have to drive to Minden so feels this is a good area for a shooting range. Hoffmeister asked his opinion of the distance needed. Jensen stated law enforcement use a 25 yard range for handguns, 25-50 yard range for rifle training and 300-500 yard range for sniper training.

Pope asked if any law enforcement officers in attendance would like to make a statement. Buffalo County Sheriff Neil Miller agreed there was a need in Buffalo County. Currently they are driving to Minden to use their range. Their next option would be to drive to Grand Island. It does impact their training for qualification.

Tom Rayburn – Poole Road is a main artery through Buffalo County. It is designed for traffic but gravel roads create dust.

Ron Fowler – not member of local shooting club but does use the facility in Grand Island. It would be a good economical boost for Buffalo County.

Max Drew – how many people live within 2 miles of it?

Wes Cunningham – each one of these types of shooting is called discipline; safety is always the issue. He questioned if there was a limit of the number of people who drive down county roads.

Mr. Clark – questioned hours of operation and this would bother his family.

Rex Benson – what if he wants to subdivide his land, will it affect his value?

Tom Rayburn – it probably would raise the value because people would want to live next to it the same way some people would like to live next to a golf course.

Ron Grapes – he summed it up as follows: There is a need in Community, it's well suited and centrally located in population areas. There won't be a perfect spot but there is a need for this and will be an asset to Buffalo County.

Pope closed the hearing at 9:00 P.M.

Hoffmeister referred to 6.2 procedures of our zoning codes and outlined the protest procedure. This Commission will make the recommendation to the County Board and the County Board is then free to do whatever they wish.

The comments from Board members are as follows:

Biehl commented this is allowed in the agricultural district with a special use permit.

Steinbrink said this is a special use and if they don't follow the rules, the County Board can rescind this special use permit.

Covalt agreed this will meet the needs for Buffalo County.

Jameson reiterated this is a good thing.

Pope understands concerns of neighbors and we can approve this with conditions. He appreciates comments regarding 4-H, law enforcement needs and recreation standpoint. Safety factor is very important and feels guns and alcohol don't mix. We do need good neighbor policies. Overall, he would support it.

Moved by Jameson, seconded by Wietjes to forward to the County Board with our recommendation for this special use permit for the Northwest Quarter of Section 1, Township 9 North, Range 15 West of the 6th p.m., Buffalo County, Nebraska with the following conditions:

1. Parking area for 50 off-street parking
2. Crushed rock for auto routes and parking
3. Rules published and submitted to County Board for their approval
4. Hours – 2 hours after sundown, lighted area, at sun up, sun down other areas
5. Bi-Annual review of operation by County Board
6. Manager office/residence on premise
7. No caliber 50 or more, smokeless powder center fire cartridge guns only; rules identify other uses
8. Shelter – evergreens on west line on Poole Road, entire length, evergreen south and west corner 200 yards on south side

Voting yes were Jameson, Wietjes, Biehl, Covalt, Pope and Steinbrink. Voting no: none.
Absent: Heiden, Skov, Wolfe. Motion passed.

At this time the Commission took a short break.

Old Business: Moved by Biehl, seconded by Steinbrink to approve the minutes of the September 16, 2004 as mailed. Voting yes were Biehl, Steinbrink, Covalt, Jameson, Pope and Wietjes.
Voting no: none. Absent: Heiden, Skov and Wolfe. Motion passed.

The Commission discussed subdivision regulations and the need to have these in place because of some of the splits that have been occurring. Motion by Wietjes, seconded by Biehl to set a public hearing for November 18, 2004 at 7:00 P.M. to adopt subdivision regulations for Buffalo County. Voting yes were Wietjes, Biehl, Covalt, Jameson, Pope and Steinbrink. Voting no: none. Absent: Heiden, Skov and Wolfe. Motion passed.

Klein reported on the actions taken by the County Board after the October 12, 2004, County Board meeting regarding the Leonard and Adam hearing.

The next meeting of the Planning & Zoning Commission will be November 18, 2004 at the Highway Department. Motion by Covalt, seconded by Steinbrink to adjourn at 9:50 P.M.