

MINUTES OF PLANNING & ZONING COMMISSION  
DECEMBER 14, 2006  
BUFFALO COUNTY HIGHWAY DEPARTMENT  
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:00 o'clock P.M. with a quorum present on December 14, 2006 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, Marlin Heiden, Willie Keep, Rick Pope, Paul Steinbrink, Sr. and Loye Wolfe. Absent: Karin Covalt and Craig Wietjes. Also attending were Deputy County Attorney Melodie Bellamy, Zoning Administrator LeAnn Klein and fourteen members of the public. Leonard Skov arrived at 7:02 P.M.

Chairperson Pope announced there was a copy of the open meetings act posted on the bulletin board. The public forum was opened at 7:00 P.M. There were a number of people who voiced their complaints on the dumping of livestock waste that is coming from the Swift plant from Grand Island and what avenues can be pursued to prevent this from happening in Buffalo County. Klein told them she needs a written complaint and we will proceed to see how the situation can be handled. The people said Hall County is not letting Swift dump any waste in their County, why would Buffalo County let them dump this in our County. In the summer, the smell is awful and flies are a problem. They have concerns on the effect on the water table and the weight on roads. The public forum closed at 7:10 P.M.

Chairperson Pope opened the public hearing at 7:10 P.M for a special use permit for Dewey Roth and Robert Groeteke for property being part of the Southwest Quarter of Section 17, Township 12 North, Range 13 West of the 6<sup>th</sup> p.m., Buffalo County Nebraska containing approximately 4.16 acres.

Robert Groeteke was present and told the Commission he would like to put fertilizer storage at this location. His current site is in the jurisdiction of the City of Ravenna and it does not allow for expansion. He handles 28% or 32% liquid nitrogen or liquid phosphate. He knows the requirements of EPA and will comply with the State of Nebraska requirements. Groeteke would be setting up tanks and would be supplying liquid fertilizer to area farmers. The farmers would be filling their applicators at this site or the product would be delivered directly to the farmers. Surveyor Mitch Humphrey was present and gave the Commission an aerial map of the area.

Zoning Administrator Klein asked if he would have any employees and what the hours of operation would be. She also asked what the capacity would be and how would the farmers get the product. Klein also asked when the cement containment would be built. Klein also stated a 911 address would have to be posted on the property. She also asked who the owner of the property was.

Groeteke replied as follows:

1. There would be no other employees.
2. Hours of operation would be by appointment.

3. Capacity would be between 500-1500 tons of product.
4. 911 address would be on site.
5. The 72' x 42' containment would be built to handle any spills and would be approved by the EPA.
6. The owner of the property is Dewey Roth, Trustee and Venla Roth, Trustee.

Bellamy asked if the site would be monitored and if someone would be checking on the site every day. Groeteke responded he would be checking on this because he doesn't want to lose any product.

Wolfe asked about the existing tanks and how will the product be delivered to the farmers. Groeteke stated farmers would be coming to this site and would pump liquid fertilizer directly into the sprayers or the product would be delivered directly to their farms from the manufacturer.

Skov stated there should be a clear understanding of who owns the property and who will be liable if there is a problem. Skov also questioned what road would be used for access to property. Groeteke stated they would be using Range Road to access the property.

Biehl asked if he would handle any dry product which Groeteke replied no. He also questioned why he was relocating. Groeteke replied he couldn't expand where his business is currently located.

Keep asked if he would have any fencing around the business. Groeteke said he wasn't planning any fencing at this time.

Heiden asked if Groeteke would furnish applicators for the farmers. Groeteke replied the farmers have their own applicators and he would not supply them.

Pope asked Groeteke if he would handle chemicals which Groeteke responded no.

Allen Shultz owns property to the east of this site and has concerns with mixing of chemicals and the smell associated with chemicals. Groeteke responded he would be handling a non-pressurized 28% and 32% solution, which do not have a smell. He also would handle nitrogen phosphate (10-34-0) and a sulfur blend which also does not smell. These products would be blended at the manufacturer. He will not handle any anhydrous ammonia.

Robert Urwiller lives to the north of the proposed site and he questioned the condition of some of the tanks where the product will be stored. Groeteke responded one is 35 years old but they are in excellent condition. The other tanks are fiberglass and are also in good condition.

Barbara Urwiller voiced her concerns of the amount of traffic on Highway 2 and also the condition of the roads. She said Highway 2 is suppose to be a scenic highway and doesn't want to see fertilizer tanks along the highway. She is tired of Buffalo County being a dumping ground.

Ron Urwiller has built a new home about 1 ½ mile from this site. His concerns are protecting the quality of life and how this will affect water quality and who will clean up a mess if there is a spill. He also questioned putting a commercial operation in an agricultural area.

Sherry Hopkins lives about ¼ mile on Highway 2. She questioned if they would be using a drive way directly off Highway 2. These are family farms and this business would create an eyesore. She also questioned the containment and questioned how far the nearest residence will be. She responded she thinks a commercial operation should not be located here.

Humphrey responded Groeteke's business has been at the current location for 10 years and they never had a complaint from adjoining neighbors.

Klein referred to Section 5.14 #3 Agriculture service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis; agricultural grain product milling and processing; commercial grain warehouses, establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, harvesting and plowing; farm equipment services and repair. She also explained the process of the special use permit and the resolution will be filed against the land. We will need a complete legal description before the County Board hears this. Groeteke also had mentioned that the concrete containment would not be started until next year sometime. She said he could ask for an extension of the 120 days starting time from the County Board at their hearing.

Humphrey stated the bins will be at the north end of this property, access will be off Range Road and the tanks are comparable to grain bins in height.

Groeteke also responded the concrete containment walls will be about 8 inches thick and the floor will be between 8-12 inches thick. He will have a total of seven tanks, the largest being about 30' in height and the other tanks either being 20' or 12' in height.

Allen Vogt of Grand Island questioned why corn storage was listed on the application. Klein responded corn storage is a "use by right" and does not need to be on the application.

Klein read a letter from Denise Rice who also was in opposition to permit. Klein told the audience that Denise really needs to attend in person or have someone appear on her behalf.

Pope closed the hearing at 8:15 P.M.

Biehl noted the Nebraska Department of Roads will control access off Highway 2.

Skov understands the concern of growth and change but this application is AG related and this is a good fit.

Keep stated the County Board will address the time issue.

Pope commented this is an AG area and is something that farmers need. He feels this is feasible. He also noted that many farmers have liquid storage facilities located on their farms.

Biehl also commented this is an ideal location as far as access to a hard-surfaced road.

Moved by Skov, seconded by Heiden to recommend forwarding this special use permit filed by Dewey Roth and Robert Groeteke with approval to the County Board on the following described legal description: A tract of land being part of the Southwest Quarter of Section 17, Township 12 North, Range 13 West of the Sixth Principal Meridian, Buffalo County, Nebraska, and being located North of Nebraska State Highway No. 2 and more particularly described as being approximately 445 feet East and West and 407 feet North and South, containing approximately 4.16 acres, more or less with the following conditions:

1. Corn storage does not need to be included on application as this is allowed by “use by right” in agricultural zoning.
2. Access road shall be off Range Road.
3. This application is approved pending approval with the Nebraska Department of Environment Quality.
4. Capacity of storage facilities is limited to 1500 tons of product.

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

Klein said the application will be heard before the County Board on January 9 and notices again will be sent to adjacent property owners.

Chairperson Pope opened the next public hearing at 8:28 P.M for a special use permit for Kerwyn Stewart on behalf of Stewart Auto Sales for property being part of the South Half of the Southwest Quarter of Section 16, Township 10 North, Range 13 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska, containing approximately 10 acres.

Kerwyn Stewart told the Commission he wants to be able to purchase vehicles at dealer auctions for friends. One of the requirements of a dealer license is to have a set number of hours. The majority of these vehicles will not be delivered to his residence but will be delivered directly to other dealers. This is not his primary job but he would do this as a sideline.

Bellamy asked if this was his primary residence which he replied it was.

Klein stated first she thought they could consider this an accessory use as stated in Section 8, but after conferring with the County Attorney’s Office; a special use permit would be required. Klein asked hours of operation, if he would have other employees, if all the cars would be inside an existing building, if there is a 911 address, if there would be a sign and would it change the character of the neighborhood?

Stewart replied as follows:

1. Hours as posted would be Monday-Friday, 9:00 A.M. -5:00 P.M.
2. There would be no other employees.
3. Some of the cars would be stored inside existing building but there would also be some vehicles stored outside.

4. He already has a 911 address
5. There is a sign posted on the building.
6. It would not change the character of the neighbor.

Heiden asked if there would be any unlicensed vehicles. Stewart replied every vehicle would have a dealer plate.

Skov asked if he would service any vehicles on site which Stewart replied no.

Biehl asked if there would be adequate exposure at this location but Stewart stated a lot of sales would be to friends and the State required him to maintain a certain number of hours for a dealer's license. Stewart also said he cannot get a dealer's license unless he complies with zoning requirements.

Pope asked how many cars he needed to sell each year which Stewart said 60 vehicles is required per year to retain his dealers license.

Skov asked if he would have a problem if the Commission limited the number of vehicles stored on site.

Heiden thought the vehicles probably couldn't be seen from road.

Mark Hahn, who owns property surrounding Stewart's land, asked if the property would be rezoned to Commercial or Industrial but Pope told him this is a special use permit. Mark also asked if this special use would change his property value. He also questioned if this follows the land or owners. The Commission told him this follows the land. What happens if Stewart does moves from this location? Does it cancel the special use? Hahn has concerns of future owners of this property. Hahn thinks Stewart is complying with the special use permit for all the wrong reasons. He is opposed to a car lot in the middle of the country.

Allan Hahn, who owns property to the east of the proposed site, does have concerns with the number of cars that will be parked outside and also the ownership of future land owners in the event that Stewart moves. Hahn does not have concerns with Stewart but he does with future owners. Klein said they could add conditions to this special use permit.

Pope closed the hearing at 9:05 P.M.

Steinbrink asked Stewart how long he would live at this location. He noted this special use will be attached to the real estate for a long time.

Pope appreciates the comments made by Mark and Allan. They could add conditions to limit the number of cars. He feels they have a valid concern with bringing an auto dealer into an AG area. Pope doesn't want to see 30-40 cars but would not oppose it if it was a small operation.

Biehl, Keep and Heiden also agreed with Pope.

Heiden asked how many cars would be sitting outside. Stewart said he has 2 personal vehicles and could not see more than 10 vehicles total.

Moved by Steinbrink, seconded by Biehl to forward this application to the County Board with recommendation this special use permit be approved for an auto dealer for property described as a tract of land being part of the South Half of the Southwest Quarter (S ½ SW ¼) of Section Sixteen (16), Township Ten (10) North, Range Thirteen (13) West of the 6<sup>th</sup> P.M., Buffalo County, Nebraska; described as follows; Referring to the Southwest Corner (SW ¼) of Section Sixteen (16) and assuming the South line of the Southwest Quarter (SW ¼) of said Section Sixteen (16) as bearing South 89° 55' 56" East and all bearings contained herein are relative thereto: thence South 89° 55' 56" East and on the South line of the Southwest Quarter (SW ¼) of said Section Sixteen (16) a distance of 1110.0 feet to the actual place of beginning; thence continuing South 89° 55' 56" East and on the aforesaid South line a distance of 660.0 feet; thence North 00° 04' 04" East a distance of 660.0 feet; thence North 89° 55' 56" West a distance of 660.0 feet; thence South 00° 04' 04" West a distance of 660.0 feet to the place of beginning with the following conditions:

1. No more than 10 operable vehicles total at any one time including personal vehicles be located on the property.
2. Vehicles are parked no closer than 200' from center of 160<sup>th</sup> Road.

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

Klein said the application will be heard before the County Board on January 9 and notices again will be sent to adjacent property owners.

Old Business: Moved by Biehl, seconded by Steinbrink to approve the minutes of the September 21, 2006 meeting as mailed. Voting yes were Biehl, Steinbrink, Heiden, Keep, Pope, Skov and Wolfe. Voting no: none. Absent: Skov and Wietjes. Motion passed.

Klein discussed other areas of concern.

The next meeting of the Planning & Zoning Commission will be January 18, 2007 at 7:00 P.M. at the Highway Department.

Motion was made by Steinbrink, seconded by Skov to adjourn at 9:30 P.M.