

MINUTES OF PLANNING & ZONING COMMISSION
OCTOBER 18, 2007
BUFFALO COUNTY HIGHWAY DEPARTMENT BUILDING
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:00 o'clock P.M. with a quorum present on October 18, 2007 at the Buffalo County Highway Department building at 9730 Antelope Ave., Kearney, NE.

Agenda for such meeting was regularly posted as required by law. Present were: Francis "Buss" Biehl, Marlin Heiden, Willie Keep, Rick Pope, Leonard Skov, Paul Steinbrink, Sr., Craig Wietjes and Loye Wolfe. Absent: Karin Covalt. Also attending were Deputy County Attorney Andrew Hoffmeister, Zoning Administrator LeAnn Klein and 9 members of the public.

Chairperson Pope announced there was a copy of the open meetings act posted.

The public forum was opened at 7:02 P.M. There was no one that spoke at this time. The public forum closed at 7:02 P.M.

It has been requested by the Woitaszewski Brothers for an extension to continue the hearing for the three special use permits until the November 15, 2007 meeting.

Motion made by Heiden, seconded by Steinbrink to continue the hearing for the three special use permits for livestock confinements to November 15, 2007. Voting yes were Heiden, Steinbrink, Biehl, Keep, Pope, Skov, Wietjes and Wolfe. Voting no: none. Absent: Covalt. Motion carried.

Chairperson Pope opened the public hearing at 7:05 P.M for a zoning map amendment for agricultural to agricultural-residential filed by Dave Dwiggins on behalf of Dwiggins Farm Co. for property described as the East Half of the Northeast Quarter of Section 25, Township 10 North, Range 14 West of the 6th p.m., Buffalo County Nebraska. Dave Dwiggins was present and told the Commission he wants to be able to put additional lots on 80 acres of his land since there is a demand for housing at this location. There is already traffic on this road because of the existing golf course and there are already two existing drive ways off Pawnee Road. There are currently two new homes north of the golf course on the east side of Pawnee Road. He told the Commission there would be covenants established.

Hoffmeister asked the following questions:

1. Is there is a blind entrance to the UPRR tower?
2. Will there be a community water system?
3. Do the covenants have a minimum lot size?
4. How many access roads will there be to Pawnee Road?
5. How far north of Gibbon?
6. Is there three phase power?
7. Is this in the Gibbon school district?

Dwiggins replied as follows:

1. No blind entrance to the UPRR tower but the road drops off south of the drive.
2. No community water system.
3. No minimum lot size.
4. Two access roads off Pawnee Road.
5. About four miles north of Gibbon.
6. Yes, there is three phase power.
7. It would be in the Gibbon school district.

Klein asked how many lots he is planning. Dwiggins replied 13 at this time. Klein also asked the location of the driveway which Dwiggins said would be directly across from the golf course driveway. Klein stated she had noticed it is fairly flat so visibility shouldn't be a problem.

Heiden asked if he wants to rezone the entire 80 acres which Dwiggins said he does.

Skov said he realized we don't have subdivision regulations yet but he asked if he intends to create a subdivision which Dwiggins replied probably not. Skov also questioned if there would be ample room for emergency vehicles which Dwiggins said yes there is.

Biehl said the absence of a hard-surfaced road would be detrimental. That is another consideration in rezoning.

Pope has concerns with the road. There are sharp curves south of existing area. He asked if there was a lot of grain traffic on this road.

Dwiggins said Gibbon Road has more grain traffic. You can go one mile west and there is a hard-surfaced road going north of Highway 30 on Gibbon Road.

Pope questioned how many vehicles is the average per residence. Hoffmeister replied the average is 10 trips per day for the average residence.

Skov said if there are 130 vehicles per day that averages about one vehicle every three minutes. This is probably not high volume traffic.

Keep said he had been up to the golf course for some events and more houses might get the road paved sooner.

There were no comments from the public.

Chairperson closed the hearing at 7:23 P.M.

Wolfe asked if there had been any comments from neighbors.

Klein responded neighbors had been notified and there had been no calls received. Klein noted she had recently permitted two homes north of the golf course within the last year which are uses

by right. Klein also asked Dwiggins how far it was to the hard-surfaced Gibbon road. He replied about 2 miles south and 1 mile west.

Heiden agreed this is a good plan but the road is a concern.

Pope reiterated there is concern with the amount of traffic on this road.

Biehl thought this was a nice subdivision but questioned if this should be rezoned.

Klein said the golf course is existing and there tends to be more residential housing surrounding golf courses.

Skov said this does meet some of the expected plans for subdivisions.

Wolfe said previous applications had lots of opposition because of the amount of cattle and farm traffic in certain areas. She also said if people want to live in the country, they need to expect certain conditions for roads and need to adjust their driving. If we had subdivision regulations passed by this County, than we could address some of these issues better.

Wietjes said if we required paved roads, there would never be new subdivisions in this County. We already have subdivisions that don't have paved roads.

Biehl said in defense of this Commission, we worked on subdivision regulations and passed them onto the County Board in April of 2005 and they have been tabled since that time.

Wolfe told the Commission this area has rough terrain and is used just for pasture ground. This is not farmable.

Biehl agreed it is pretty practical for building homes.

Hoffmeister told the Commission the question before them is if this area should be rezoned. The Commission could put requirements on the motion. Hoffmeister explained Section 11.3 and 11.4 of the zoning regulations.

11.3 AMENDMENT CONSIDERATION AND ADOPTION

The procedure for the consideration and adoption of any such proposed amendments shall be in like manner as that required for the consideration and adoption of the resolution except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half (1/2) of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend. When amending zoning district boundaries, the Planning Commission and County Board where applicable and authorized may place conditions upon property sought to be re-zoned. (Resolution 9-14-04)

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the County Board, if it approves such recommendation, may either adopt such recommendation by resolution or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the County Board may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the County Board disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval, and such recommendation shall be considered in like manner as that required for the original recommendation returned to the Planning Commission. If such amendment shall affect the boundaries of any district, the resolution shall define the change or the boundary as amended, shall order the Official Zoning Map(s) to be changed to reflect such amendment, and shall amend the section of the resolution incorporating the same and reincorporate such Map as amended.

11.4 PROTEST

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the County Clerk within seven (7) days after the date of the conclusion of the Planning Commission's public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the County Board. (Resolution 10-10-03)

Moved by Skov, seconded by Wietjes to forward this application to the County Board with a recommendation that this application for a zoning map amendment be approved from Agricultural to Agricultural-Residential for property described as the East Half of the Northeast Quarter of Section Twenty-Five (25), Township Ten (10) North, Range Fourteen (14) West of the Sixth Principal Meridian, Buffalo County, Nebraska with the following conditions:

1. No more than two entry points onto Pawnee Road

Voting yes were Skov, Wietjes, Biehl, Heiden, Keep, Steinbrink, and Wolfe. Voting no: Pope. Absent: Covalt. Motion passed.

Klein said the hearing before the County Board will be heard on November 13, 2007. Hearing notices will again be mailed to adjoining property owners.

Chairperson Pope opened the public hearing at 7:46 P.M. for consideration of general amendments to amend Section 5.14, 5.34 and Section 5.37 as previously adopted by Buffalo County.

Hoffmeister explained that Section 5.14 and Section 5.34 doesn't address the use of the property but who owns it.

Skov agreed that after looking at the lists under these two sections, we know what the use is for. We don't know what the use is for in Section 5.14 and Section 5.34.

Hoffmeister also explained the concern of adding the 35' height limitation for Section 5.37. This originally had been in our zoning regulations. Most rural fire trucks don't have the necessary equipment to fight fires for structures taller than 35 feet.

Chandler Lynch of Kearney questioned why limit the height of a home a person wants to build.

Bob McBride does build residential and commercial buildings. Some of the Victorian homes he builds do exceed the 35' height limitation.

Cindy McNeil agrees that charitable institutions should be based on use rather than who owns properties.

John Brusie has served on various zoning board in other States and there are concerns in rescuing a child from a structure taller than 35'.

Chairperson Pope closed the public hearing at 8:20 P.M.

Moved by Skov, seconded by Wolfe to amend Section 5.14 and Section 5.34 as follows, with renumbering to occur after deletion:

5.14 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the "AG" Agriculture District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Airports and heliports including crop dusting strips;
2. Sewage treatment plants for primary and secondary treatment; public and private sanitary landfills; gravel plants and asphalt or concrete batch plants;
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.
4. Broadcast towers and stations and wind generation systems, including but not limited to Amateur Radio or communication towers of more than 100 feet which in addition to any requirements of the special permit shall comply with all applicable Federal Aviation Administration rules and regulations.

5. Public and private recreational uses, including parks and playgrounds, campgrounds, golfcourses, and riding stables;
6. Auction/sale barns and yards;
7. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
8. Salvage or junk yards in accordance with Section 6.3;
9. Mineral extraction, which shall include the following: oil wells, sand, dirt and/or gravel extraction and quarries;
10. Private pre-school or day-care centers, elementary and high schools;
11. Expansion of existing or development of new Class III or larger livestock confinement facilities/operations as defined in Section 3.46 and in accordance with Section 6.4;
12. Veterinary facilities;
13. Dog breeding establishments and kennels;
14. Commercial and/or Industrial operations;
15. Hospitals, penal institutions and sanitariums;
16. Nursing and care homes;
17. ~~Public and private, including non-profit, charitable institutions;~~ and
18. Recreational motel-lodging.

That Section 5.34 be amended to read as follows, with renumbering to occur after deletion:

5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;
2. Cemeteries, crematories, mausoleums and columbarium;
3. Child care center;
4. Radio and television towers and transmitters;
5. Camp grounds;
6. Wind generating systems;
7. Commercial kennels;

8. ~~Public and private charitable institutions;~~
9. Greenhouses and nurseries;
10. Animal clinics, animal hospitals and veterinarian services; and
11. Mobile home parks.
12. Mini storage facilities (Resolution 5-27-03)
13. Parks and recreational areas owned and/or occupied by private agencies. (Resolution 10-10-03)
14. Airports (Resolution 10-10-03)
15. Public utilities and utility distribution systems (Resolution 8-10-04)

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

Following much discussion on the 35' height limitation, it was moved by Biehl, seconded by Wolfe to table the discussion of Section 5.37 until the November meeting. Voting yes were Biehl, Wolfe, Heiden, Keep, Pope, Skov, Steinbrink and Wietjes. Voting no: none. Absent: Covalt. Motion carried.

Old Business: Klein told the Commission that someone had called wanting additional information inserted for the September 20, 2007 minutes on page 10, 6th paragraph. Klein said she had gone back to the tapes and listened and showed the exact wording. The Commission responded the summary said the same information.

Moved by Heiden, seconded by Biehl to approve the minutes of the September 20, 2007 as mailed. Voting yes were Heiden, Biehl, Keep, Pope, Skov, Steinbrink, Wietjes and Wolfe. Voting no: none. Absent: Covalt. Motion passed.

Klein told the Commission the outcome of the County Board meeting. Other areas of concern were also discussed.

Klein also gave the Commission dates to tour E-3 facility at Mead. Only three members of the Commission will tour the facility at one time.

The next regular meeting of the Planning & Zoning Commission will be November 15, 2007 at 7:00 P.M at the Buffalo County Extension Center meeting room.

Motion was made by Heiden to adjourn at 8:55 P.M.