

MINUTES OF PLANNING & ZONING COMMISSION
MARCH 18, 2010
BUFFALO COUNTY HIGHWAY DEPARTMENT
7:00 P.M.

Chairperson Wietjes opened the meeting at 7:04 P.M. at the Buffalo County Highway Department Building in Kearney, NE with a quorum present on March 18, 2010. Present were: Karin Covalt, Ken Erickson, Marlin Heiden, Willie Keep, Leonard Skov, Paul Steinbrink, Sr., Gwen Stengel, Craig Wietjes and Loye Wolfe. Absent: none. Also attending was Deputy County Attorney Andrew Hoffmeister, Zoning Administrator LeAnn Klein and four members of the public.

Wietjes announced there is a copy of the open meetings act posted and we do abide by the open meetings act.

Agenda for such meeting was regularly posted as required by law and the agenda is available for anyone wanting one.

The public forum was opened at 7:04 P.M. No one was present to address the Commission. The public forum closed at 7:04 P.M.

Chairperson Wietjes opened the public hearing at 7:05 P.M. for a zoning map amendment filed by Trenton Snow on behalf of Robert K. Hunter for property described as a tract of land being part of the SE ¼ of the SE ¼ of Section 2, Township 11 North, Range 16 West of the 6th p.m., Buffalo County, Nebraska.

Bob Hunter was present and told the Commission he wants to rezone a parcel from Agricultural to Agricultural-Residential so he can build a home.

Hoffmeister asked where the property is located, how many acres will be split off and where the drive-way will be located.

Hunter responded this property is approximately 1 ½ miles south of Pleasanton, the parcel is about 5 acres and the drive-way will be directly off Hwy 10 on the west side.

Hoffmeister also asked how many houses are in this quarter. Currently there are two houses in this quarter. He also asked how far this property is located from the jurisdiction of the Village of Pleasanton. It is located just outside their jurisdiction.

Klein asked if he had contacted the State Department of Roads regarding the drive-way. Hunter replied he had been in contact with them.

Hunter's sister lives to the south and he stated he would only be putting one home on these five acres.

Steinbrink questioned if the drive-way was in a safe spot.

Hunter thought the drive-way was in a better location than the 280th Road because of better visibility.

Hoffmeister asked if he had permission from the State Department of Roads for this drive-way. Hunter replied he did have permission.

Skov questioned if it would be better if this property remain Agricultural. Because of the 1000' rule, they would not be able to build a home.

Hoffmeister said this is the ideal spot for AGR zoning. It is directly off a hard-surfaced road. At one time the County was thinking about putting AGR ½ mile on each side of Hwy 10.

Chairperson Wietjes closed the public hearing at 7:17 P.M.

Moved by Erickson, seconded by Wolfe to forward this application to the County Board with a recommendation that this application for a zoning map amendment from Agricultural to Agricultural-Residential be approved for property described as a tract of land being part of the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Two (2), Township Eleven (11) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast corner of the Southeast Quarter of said Section 2 and assuming the South line of said Southeast Quarter as bearing WEST and all bearings contained herein are relative thereto; thence WEST on the aforesaid South line a distance of 33.7 feet to a point on the West right-of-way line of Nebraska State Highway No. 10; thence N 00°52'47" W on the aforesaid West right-of-way line a distance of 324.7 feet; thence N 00°31'33" W on said West right-of-way line a distance of 368.33 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N 00°31'33" W on said West right-of-way line a distance of 37.77 feet; thence N 00°53'53" E on said West right-of-way line a distance of 100.0 feet; thence N 04°42'44" E on said West right-of-way line a distance of 212.89 feet; thence leaving said West right-of-way line WEST parallel with the aforesaid South line a distance of 641.64 feet; thence SOUTH a distance of 344.0 feet; thence S 89°27'18" E a distance of 622.96 feet to the place of beginning, containing 5.01 acres, more or less, with the following condition:

1. That only one residence is located on the 5.01 acres.

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

Klein said this application will be heard by the County Board on April 13, 2010 and notices again will be sent to adjoining property owners.

Chairperson Wietjes opened the public hearing at 7:20 P.M. for consideration of general amendments of the Buffalo County Zoning Regulations as previously adopted. Items to be changed are re-numbering of definitions as defined in Article 3 and also to discuss adding or amending wind power language.

Deputy County Attorney Hoffmeister told the Commission changes are needed for Sections 5.12, 5.14, 5.32 and 6.4.

There was no one present to speak in favor or opposition.

Moved by Wolfe, seconded by Covalt these sections be amended to read as follows and forward this to the County Board with approval.

5.12 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. General farming and ranching activities, excluding any expansion of existing or development of Class III or larger livestock confinement facilities/ operations as defined in ~~Section 3.46~~ Article 3 and classified in Sec. 6.4.

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: (Resolution 12-4-07)

12. Expansion of existing or development of new Class III or larger livestock confinement facilities/operations as defined in ~~Section 3.46~~ Article 3 and in accordance with Section 6.4;

5.32 PERMITTED PRINCIPLES USES AND STRUCTURES: The following shall be permitted as uses by right:

1. General farming, including hobby farming or animal raising, excluding any expansion of existing or development of Class III or larger livestock confinement facilities/operations as defined in ~~Section 3.46~~ Article 3) and classified in Section 6.4.

6.4 LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS

Livestock confinement facilities/operations defined by ~~Section 3.46~~ Article 3 or Class III or larger shall only be allowed by special permit in the AG Agricultural District. All livestock confinement facilities/operations are allowed under the following conditions:

Voting yes were Wolfe, Covalt, Erickson, Heiden, Keep, Skov, Steinbrink, Stengel and Wietjes.
Voting no: none. Absent: none. Motion carried.

Other items regarding wind turbines were discussed at this time. The Commission has concerns about the decommissioning plan. Hoffmeister told the Commission that Legislative Bill 568 has been passed by the legislature which addresses this concern.

Also present for the discussion was Dave Behle with Dawson Public Power District and Jeff Berggren with Husker Wind Power. They discussed various aspects of different size wind

turbines as well as noise levels. At this time, it was the consensus of the Commission to have special use permits for the small and big wind turbines.

There was no one present to speak in favor or opposition.

Wietjes closed the public hearing at 8:20 P.M.

Deputy County Attorney Hoffmeister told the Commission the following definitions need to be added to the Buffalo County Zoning Regulations as previously adopted by Buffalo County.

Moved by Skov, seconded by Heiden to add the following definitions in Article 3, renumbering remaining sections as needed and forward to the County Board with approval:

AMENDMENT 1A:

GENERAL HOUSING. The mechanical housing, usually enclosed from the weather, that is minimally comprised of an armature shaft, magnets and electrical wiring that generates direct or alternating electrical current by rotation of the armature within a magnetic field.

Voting yes were Skov, Heiden, Covalt, Erickson, Keep, Steinbrink, Stengel, Wietjes and Wolfe. Voting no: none. Absent: none. Motion carried.

Moved by Erickson, seconded by Covalt to add the following definition in Article 3, renumbering remaining sections as needed and forward to the County Board with approval:

AMENDMENT 1B:

WIND FARM. One or more wind powered generators that create and transmit power principally for connection to publicly used power grid. Wind farms shall include, but shall not necessarily be limited to the following structures and uses; wind powered generators, operations and/or maintenance buildings, meteorological towers, electrical wiring, collector grids, roads and substations. Any wind powered generator or generators that create over 25 kW, singly and/or wholly, is a farm.

Voting yes were Erickson, Covalt, Heiden, Keep, Skov, Steinbrink, Stengel, Wietjes and Wolfe. Voting no: none. Absent: none. Motion carried.

Moved by Skov, seconded by Steinbrink to add the following definition in Article 3 renumbering remaining sections as needed and forward to the County Board with approval:

AMENDMENT 1C:

WIND POWERED GENERATOR (WPG). A turbine or rotary type generator designed to extract kinetic energy from the wind and convert this energy to electrical energy. It is comprised of a base where it attaches to the ground, supporting member of the generator housing usually referred to as a tower, wiring at or within the tower, generator housing, and a means to propel the armature shaft in the generator housing by use of the power of the wind accomplished through use of airfoils or similar devices connected to the armature shaft.

Voting yes were Skov, Steinbrink, Covalt, Erickson, Heiden, Keep, Stengel, Wietjes and Wolfe.
Voting no: none. Absent: none. Motion carried.

Other corrections were then discussed.

After discussion a motion was made by Wolfe, seconded by Heiden that Section 5.14 #4 be amended to read as follows and forward this to the County Board with approval:

AMENDMENT 2A:

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: (Resolution 12-4-07)

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.

Voting yes were Wolfe, Heiden, Covalt, Erickson, Keep, Skov, Steinbrink, Stengel and Wietjes.
Voting no: none. Absent: none. Motion carried.

Motion was made by Skov, seconded by Covalt to add as a separate special use in AG district by adding the following language in Section 5.14:

AMENDMENT 2B:

19. Wind powered generation of electrical power.
20. Wind Farms.

Voting yes were Skov, Covalt, Erickson, Heiden, Keep, Steinbrink, Stengel, Wietjes and Wolfe.
Voting no: none. Absent: none. Motion carried.

Moved by Heiden, seconded by Erickson that Section 5.34 #6 be amended as follows and forward this to the County Board with approval:

AMENDMENT 3:

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: (Resolution 12-4-07)

6. Wind Powered Generation of electrical power ~~generating systems~~;

Voting yes were Heiden, Erickson, Covalt, Keep, Skov, Steinbrink, Stengel, Wietjes and Wolfe.
Voting no: none. Absent: none. Motion carried.

The decommissioning plan will be discussed at a later time.

Old Business: Moved by Erickson, seconded by Heiden to approve the minutes of the February 18, 2010 meeting as mailed. Voting yes: Erickson, Heiden, Covalt, Keep, Skov, Steinbrink, Stengel, Wietjes and Wolfe. Voting no: none. Absent: none. Motion passed.

Other items of concern were discussed.

The next meeting of the Planning & Zoning Commission will be April 15 at 7:00 P.M.

Moved by Steinbrink to adjourn at 9:00 P.M.