

MINUTES OF PLANNING & ZONING COMMISSION
JUNE 21, 2012
BUFFALO COUNTY COURTHOUSE
7:00 P.M.

Vice-Chairperson Keep opened the meeting at 7:00 P.M. at the Buffalo County Courthouse in Kearney, NE on June 21, 2012.

Present were: Scott Brady, Willie Keep, Paul Steinbrink, Sr., Leonard Skov, Gwen Stengel and Loye Wolfe. Absent: Ken Erickson, Marlin Heiden and Richard Skelton. Also attending were Deputy County Attorney Melodie Bellamy, Zoning Administrator LeAnn Klein and fifteen members of the public.

Notice of the meeting was given in advance thereof by publication in the legal newspaper. A copy of the proof of publication is on file in the Zoning Administrator's office. Advance notice of the meeting was also given to the Planning & Zoning Commission and availability of the Agenda was communicated in the advance notice. The agenda is available for anyone wanting a copy of the agenda.

Vice-Chairperson Keep announced that in accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for review and is posted on the easel and we do abide by the Open Meetings Act.

The public forum was opened at 7:01 P.M. There was no one present to address the Commission. The public forum closed at 7:01 P.M.

Vice-Chairperson Keep opened the public hearing at 7:02 P.M for a special use permit for Dave Hervert on behalf of DDH Properties, L.L.C. for property described as part of the North Half of the Southwest Quarter of Section Nine (9), Township Twelve (12) North, Range Thirteen (13) West of the 6th p.m. Buffalo County, Nebraska for a truck and trailer wash facility and sewage treatment plant. This is a continuation from the April 19, 2012 meeting.

Craig Bennett with Miller & Associates of Kearney, NE was present to represent Dave Hervert. Mr. Hervert was also present. Bennett said he would answer any additional questions from the Commission. Jacque Reiner, a civil engineer, was also present to answer any questions.

Stengel questioned if the property line on the map is correct. Reiner said it was a good representation.

Wolfe asked what trucks would not be allowed. Reiner said garbage trucks or chemical trucks would not be allowed. Agricultural trucks and livestock trailers would be allowed.

Skov and Brady asked if someone would be staffing the facility. Reiner said someone would need to be there since the water supply would be locked.

Skov said someone would need to be present to monitor the facility. Several management plans would be given to the owner and Hervert would be responsible for the management plan.

Brady asked about the truck wash south of Elm Creek. They just wash their own trucks.

Wolfe asked about the Nebraska Department of Environmental Quality. Reiner responded DEQ grants a construction permit and the facility is built according to these specifications. The State will check periodically. They have not decided yet what type of liner would be used.

Wolfe asked if the clay is tested. Reiner responded the clay is tested.

Brady asked how many trucks will they be washing? They are approved for 5 trucks per day year around. Reiner said these guys are trying to keep the manure off the roads. This facility can be shut down if the lagoon gets too full. There needs to be 2' of freeboard on the lagoon.

Wolfe asked if they have a certain number of acres to land apply.

Brady asked what happens if the solids are applied to the soil. Hervert said they have tests that would be done to the soil.

Brady also asked if she had visited with the Road Department. Reiner said that was the first letter she wrote and she never got a reply from the Highway Department. He has concerns about the condition of the road and the amount of traffic.

Keep said it is tough to address when the truck repair shop has already been approved.

Reiner said there is a need for a truck wash rather than the trucks dumping their livestock waste on the road.

Ron Urwiller has concerns because of the quality of life. It's not economically viable and he has a lot of skepticism. There are a lot of concerns.

Chris Graczyk told the Commission there has been past history of poor management and she also has concerns.

Bea Urwiller asked about the dumping of dead cattle which has not been addressed. They have been battling pink eye ever since.

Barb Urwiller questioned if their quality of life would be affected.

Bea Urwiller asked if they got the information on trucks washed.

Ron Urwiller also asked if he could see a copy of the information the zoning administrator had given the Commission. Ron was told he could look at the information at the zoning office.

Jacque Reiner is a civil engineer and since 1984 she has been an environmental engineer. Her job is to design so water can be re-used. Agricultural industries didn't have to comply but now they do. Mr. Hervert is trying to do this correctly.

Keep asked if she felt there was concern for the water quality.

Reiner said she did not have any concerns that the water quality would be affected.

Brady asked if odor would be a problem for the neighbors. Reiner replied she didn't think so.

Ron Urwiller said the smell is a quality of life issue.

Craig Bennett told the Commission we are not talking about paunch. There could be 300 head of cattle at this location. The zoning is AG and the zoning is also AG for adjoining properties.

Hervert is trying to do this correctly and he has contacted the NRCS to make things safe. This is a needed thing. We have to haul livestock and will be a good thing for the industry.

Keep closed the public hearing at 8:00 P.M.

A motion was made by Steinbrink, seconded by Skov to approve the special use permit subject to Nebraska Department of Environmental Quality requirements for a livestock trailer wash and sewage treatment plant on the following legal description: a tract of land comprising a part of the North Half of the Southwest Quarter (N ½ SW ¼) of Section Nine (9), Township Twelve (12) North, Range Thirteen (13) West of the 6th P.M. in Buffalo County, Nebraska more particularly described as follows: Beginning at the Southwest corner of said North Half of the Southwest Quarter (N ½ SW ¼); thence running Northerly on the West line of said North Half of the Southwest Quarter (N ½ SW ¼), on assumed bearing of N 00° 39' 29" W, a distance of One Thousand Twenty and Nine Hundredths (1020.09) feet, thence running N 89° 58' 15" E, a distance of Nine Hundred Seventy Nine and Ninety Eight Hundredths (979.98) feet; thence running S 00° 39' 14" E, distance of One Thousand Twenty and Eight Hundredths (1020.08) feet; to a point on the South line of said North Half of the Southwest Quarter (N ½ SW ¼); thence running S 89° 58' 14" W, on the South line of said North Half of the Southwest Quarter (N ½ SW ¼); a distance at Nine Hundred Seventy Nine and Ninety Hundredths (979.90) feet, to the point of beginning. Voting yes were Steinbrink, Skov and Keep. Voting no: Brady, Stengel and Wolfe. Absent: Erickson, Heiden and Skelton. The Commission failed to recommend and this will be forwarded to the County Board with no recommendation. Klein said this would be heard before the County Board on July 10.

The next hearing was opened at 8:15 P.M. that Section 6.4 be amended.

Discussion followed. The hearing was closed at 9:05 P.M. Motion was made by Skov, seconded by Brady that Section 6.4 be amended to read as follows:

That Sec. 6.4 be amended to read:

6.4 LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS

Livestock confinement facilities/operations defined by 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: (Resolution 4-13-10)

1. Distance requirements:

Any new or expanding livestock confinement facilities/operations greater than Class I, shall either be: (1) a minimum distance from any ~~residence~~ dwelling, commercial or industrial facility, or church, school or any other facility operated and/or utilized by the general public other than the ~~residence~~ dwelling, of the confinement facilities/operations owner and/or operator, or (2) have signed letters of agreement from surface landowner(s) within below stated radius of the designated perimeter supporting the proposed expansion or development of new livestock confinement facilities/operations.

Expansion of an existing livestock confinement facility/operation is defined as such when capacity of the facility is increased to the point where the total animal units is defined as a larger class. See minimum distance requirements in the following table.

MINIMUM DISTANCE SCHEDULE

TOTAL ANIMAL UNITS (Sec. ~~3.45~~ 6.4(6)) ALLOWED

Class I	Class II	Class III	Class IV
1-300	<u>301-2500</u>	<u>2501-10,000</u>	<u>10,001 & above</u>

minimum distance required:

None	<u>1/2 mi</u>	<u>1 mi</u>	<u>1 mi</u>
------	---------------	-------------	-------------

2. (unchanged)

Voting yes were Skov, Brady, Keep, Steinbrink and Wolfe. Voting no: Stengel. Absent: Erickson, Heiden and Skelton. Motion carried. This will be heard in front of the County Board on July 10.

Vice-Chairperson Keep opened up the next public hearing at 9:10 P.M. for Section 5.14 (12). After discussion the public hearing was closed at 9:15 P.M. and a motion was made by Brady, seconded by Wolfe to amend Section 5.14 (12) as follows:

That Sec. 5.14(12) concerning allowed special uses in AG District be amended to read:

- 12. Expansion of existing or development of new Class ~~III~~ IV or larger livestock confinement facilities/operations as defined in Article 3 and in accordance with Section 6.4; (Resolution 4-13-10)

Voting yes were Brady, Wolfe, Keep, Skov and Steinbrink. Voting no: Stengel. Absent: Erickson, Heiden and Skelton. Motion carried. This will be heard in front of the County Board on July 10.

Vice-Chairperson Keep opened the public hearing at 9:15 P.M. to amend Section 5.12. The public hearing was closed at 9:17 P.M. and a motion was made by Wolfe, seconded by Brady to amend Section 5.12 as follows:

That Sec. 5.12 be amended to read:

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

2. General farming and ranching activities, excluding any expansion of existing or development of Class ~~III~~ IV or larger livestock confinement facilities/operations as defined in Article 3 and in accordance with Sec. 6.4. (Resolution 4-13-10)

Voting yes were Wolfe, Brady, Keep, Skov and Steinbrink. Voting no: Stengel. Absent: Erickson, Heiden and Skelton. Motion carried. This will be heard in front of the County Board on July 10.

The next public hearing opened at 9:15 P.M. to add rural conservation district to the Buffalo County Zoning Regulations. Discussion followed. The public hearing was closed at 9:24 P.M. and a motion was made by Brady, seconded by Wolfe to add the rural conservation to the zoning regulations as follows:

5.2 RC RURAL CONSERVATION DISTRICT

5.21 INTENT: This district is intended for those areas which, because of limiting environmental characteristics such as scenic status, excessive slope, soils conditions, high water table, or other factors, require the regulation of development in keeping with the conditions imposed by the natural environment.

5.22 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 intensive livestock confinement facilities/operations as defined in Section ~~3.45~~ 3.50 and
2. Single family, ranch, and farm dwellings on an improved road, meaning a road above county minimum maintenance road classification or public street within approved subdivision, including ranch and farm dwellings; and one additional on farm/ranch single/two family dwellings for the purpose of housing relatives or permanent agriculture workers, in addition single family dwellings must be located minimum distances from a livestock confinement facility/operation in conformance with Section 6.4 not of the same property.

5.23 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.
2. Home occupations in accordance with Article 8; and
3. Roadside stands for temporary sale of produce.

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

1. Sewage disposal and water systems;
~~Public and private uses including parks, playgrounds, golf courses, recreation uses, campgrounds, riding stables, public utilities, and utility distribution system;~~
2. Flood, erosion and sediment control projects;
3. Bed and breakfast establishments;
4. Commercial and/or Industrial operations;
5. Wind powered generation of electrical power;
6. Wind Farms; ~~and~~
7. Mineral extraction, which shall include the following: oil wells, dirt, sand and gravel extraction and quarries.
8. Day care homes; (Resolution 3-11-08)
9. Parks and recreational areas owned and/or occupied by public agencies; (Resolution 10-10-03)
10. Community buildings and/or facilities owned and/or occupied by public agencies; and
11. Public schools; (Resolution 3-11-08)
12. Parks and recreational areas owned and/or occupied by private agencies. (Resolution 10-10-03)

5.25 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specially permitted or not permissible as special uses shall be prohibited from the RC Rural Conservation District.

5.26 SPECIAL REGULATION: Provisions must be made for disposal of wastes in accordance with local and state regulations.

5.27 MINIMUM AREA REQUIREMENTS:

1. The minimum lot area for RC uses shall be eighty (80) acres. By special permit this lot size may be reduced for Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems. All improved uses, other than general farming, ranching, pasturing, etc., shall be adjacent to an improved county road (above minimum maintenance road).

2. Single Family Dwelling, Lot Size:

(A) 3 acres, with the placement of a maximum of One (1) single family dwellings per U.S. Government surveyed quarter section, adjacent to an improved road (above minimum maintenance road), at a minimum distance of 1,000 feet between dwellings located in same quarter section. Such 1,000 feet between dwelling requirement and one single family dwelling per quarter section limitation may be relaxed by zoning administrator when such proposed single family dwelling meets all other zoning requirements, and said lot is shown by a recorded plat or deed recorded with the Buffalo County Register of Deeds to have been owned separately and individually from adjoining tracts of land prior to date of adoption of this ordinance.

B) Existing farmsteads of 3 acres or more not previously subdivided as of the date of adoption of the zoning ordinance as defined in the zoning regulations can be subdivided into two parcels, the minimum size of one of said parcels shall not be less than 3 acres. Legally existing parcels which are less than 3 acres, as of the effective date of the zoning regulations (January 1, 2003) without a residence may have a single family dwelling constructed, but must obtain a zoning permit.

5.28 MINIMUM YARD REQUIREMENTS:

~~1. No structure shall be placed below the high water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM) dated 11/26/2010 as 100-Year Flood Plans unless the lowest floor thereof, including basements, is elevated to a minimum of (1) foot above such high water mark.~~

~~2. Yard requirements are as follows:~~

~~Front Yard: There shall be a minimum front yard of not less than a depth of fifty (50) feet measured from the right-of-way line of street.~~

~~Rear Yard: No limitations; unless abutting a R-1 Residential District then the minimum rear yard shall be fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be fifty (50) feet.~~

~~Side Yard: No limitations; unless abutting an R-1 Residential District then the minimum side yard shall be ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum side yard shall be fifty (50) feet.~~

5.29 MAXIMUM HEIGHT: No limitation, unless regulated by state or federal authorities.

5.30 PARKING REQUIREMENTS: See Article 7.

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

The last public hearing opened at 9:30 P.M. to allow wind turbines under Commercial zoning. After discussion the public hearing was closed at 9:31 P.M. It was moved by Stengel, seconded by Skov to add the following:

To add as separate special uses in the C District the following additional language in Section Sec. 5.54:

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

9. Wind powered generation of electrical power.

10. Wind Farms.

Voting yes were Stengel, Skov, Brady, Keep, Steinbrink and Wolfe. Voting no: none. Absent: Erickson, Heiden and Skelton. Motion carried. All of these amendments will be heard by the County Board at their July 10, 2012 meeting.

Old Business: Moved by Skov, seconded by Wolfe to approve the minutes of the May 17, 2012 as mailed. Voting yes: Skov, Wolfe, Brady, Keep, Steinbrink, and Stengel. Voting no: none. Absent: Erickson, Heiden and Skelton. Motion passed.

The next meeting of the Planning & Zoning Commission will be July 19, 2012 at 7:00 P.M. at the Buffalo County Courthouse.

Keep adjourned the meeting at 9:33 P.M.