

MINUTES OF PLANNING & ZONING COMMISSION  
APRIL 21, 2005  
BUFFALO COUNTY HIGHWAY DEPARTMENT  
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:03 o'clock P.M. with a quorum present on April 21, 2005 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, Marlin Heiden, Willie Keep, Rick Pope, Leonard Skov, Paul Steinbrink, Sr., and Loye Wolfe. Absent: Craig Wietjes. Also attending were Deputy County Attorney Andrew Hoffmeister and Zoning Administrator LeAnn Klein and ten members of the public.

The public forum was opened at 7:04 P.M. John Martin addressed the Commission regarding subdivision regulations and asked the Commission to consider requiring fences around subdivisions. The public forum closed at 7:06 P.M.

Chairperson Pope opened the public hearing at 7:06 P.M. for a change of zoning request filed by Francis & Lola Biehl for property described as South Half of Northwest Quarter (S ½ NW ¼) in Section 13, Township 10 North, Range 16 West of the 6<sup>th</sup> P.M., Buffalo County Nebraska. They wish to rezone this area from Agricultural (A) to Agricultural-Residential (AGR).

Francis "Buss" Biehl asked to be recused from the Commission since he is one of the parties involved in the hearing before the Commission. Buss exited his chair from the Commission and moved to the audience.

Buss Biehl addressed the Commission why he wants to rezone. He would like to subdivide 80 acres into 22 lots. This area is flat and he has farmed this property for a number of years. There is 230 acres which is irrigated by one pump. He doesn't want to deplete the ground water and the next step is development. There are two good reasons for the development of this area, which are:

1. Hwy 10 location
2. There would be two drive ways directly off Hwy 10.

Trenton Snow, representing Biehl, said this is in the Pleasant Hill School area and showed a topography map of the area and this would comply with the proposed subdivision regulations.

Hoffmeister asked the number of dry land acres, which Snow said was 14 acres.

Hoffmeister informed the Commission of the rezoning requirements according to Section 11.3 and 11.4 as follows:

**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 (½) 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 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 there from, 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)

Heiden asked what the road widths were and Biehl responded they would all be 66' wide and would be dedicated to the public.

Pope asked about the maximum number of lots and the size of each lot. Biehl responded that there would be 22 lots, all being over three acres.

Skov asked if the sequence of the zoning regulations would be a problem.

Hoffmeister responded that the only question before the Commission is if this should be rezoned.

Pope asked about the number of driveways going directly onto Hwy 10.

Klein stated that driveways would have to be approved through the Nebraska Department of Roads.

Bob Wetovick asked about the accesses onto Hwy 10 and if this would affect his taxes. He was told there would be two accesses and this would be green belted and will not affect his taxes.

Lynn Martin is an adjacent landowner and voiced his concerns regarding taking good farm ground out of production.

Ken Schmitz has concerns about aerial spraying and the amount of fatalities already on Hwy 10.

John Martin, an adjoining land owner, sees there are problems with subdividing and wants to preserve status quo. He questioned the proximity of Buss's feedlot and feels residential development does not fit around prime ag land. He said there are many subdivisions available north and south of this site and asked the Commission not to re-zone.

Mike Altmaier, who lives directly west of the proposed site, said he is one of the farmers no longer able to farm because of the economy and feels Biehl should have the option to make a profit and be able to subdivide his land.

Snow also commented that the original Comprehensive Plan was going to have this area be AGR one-half mile each side of Hwy 10. This is a good location since it is directly off a hard-surfaced road.

Mrs. Wetovick feels these two driveways should come directly off a County Road.

Biehl appreciates the opinion from everyone. Zoning does encourage this type of communications from adjoining land owners.

Wolfe questioned the numbers of house in this area. There are two houses west of the proposed site, one home in the NE ¼, 2 houses in the SW ¼, and one home in the SE ¼.

Heiden lives directly off Hwy 10 and people do get use to the amount of traffic and if there are future problems, the State will address these problems.

Skov stated we can't keep houses out but a planned subdivision is better than having houses scattered everywhere.

Wolfe asked if there would be restrictive covenants on this proposed subdivision and thought it could be up to developer to address some of these issues with aerial spraying, dust etc.

Pope reiterated some of the comments and he is torn between two sides of this issue. He has driven down Hwy 10 and there are many homes along Hwy 10. The zoning regulations should preserve agricultural and the agricultural way of life.

Keep sees advantages in organized development.

Heiden feels it is the owners' choice what he wants to do with his land.

Covalt agreed with this statement and feels Biehl is trying to do it the right way.

Klein stated that all the adjoining property owners had been properly notified.

Chairperson Pope closed the hearing at 7:46 P.M.

Moved by Skov, seconded by Steinbrink to recommend that this application be forwarded to the County Board with approval to rezone from agricultural to agricultural-residential the South Half of the Northwest Quarter (S ½ NW ¼) of Section 13, Township 10 North, Range 16 West of the 6<sup>th</sup> P.M., Buffalo County, Nebraska, with the following conditions:

1. That there are only two access roads onto Hwy 10
2. There be no more than 22 residences in this proposed subdivision

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

Klein told the Commission this would be heard before the County Board at their first meeting in May and all the adjoining neighbors would again be notified.

Biehl than resumed his seat with the Planning & Zoning Commission for the hearing for subdivision regulations.

Chairperson Pope re-opened the public hearing for consideration and possible adoption of subdivision regulations at 8:06 P.M. This was continued from the March 17, 2005 meeting.

Some of the items discussed at length were:

1. Section 2.20, the definition of lot
2. Section roads
3. Section 4.03, Street, road and other right-of-way

Moved by Skov, seconded by Covalt to close the public hearing at 9:00 P.M. Voting yes were Skov, Covalt, Biehl, Heiden, Keep, Pope, Steinbrink and Wolfe. Voting no: none. Absent: Wietjes. Motion passed.

Moved by Wolfe, seconded by Heiden to adopt the Buffalo County Subdivision Regulations and forward to the Buffalo County Board of Supervisors with approval as filed with the County Clerk with the following amendment to Section 2.20:

**Sec. 2.20. LOT.** Lot means: (a) A portion of real property containing at least the area required at the time it was created by the zoning district in which it is or was located for use, coverage, and yard space, exclusive of existing, laid out, proposed, or reserved streets, public ways, or roads, abutting at least one public street, road, or private roadway, or

(b) a parcel of real property with a separate and distinct number or other designation shown on a final plat approved by the Buffalo County Board recorded in the office of the Register of Deeds for Buffalo County, Nebraska.

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

Moved by Steinbrink, seconded by Heiden to adopt the Buffalo County Subdivision Regulations and forward to the Buffalo County Board of Supervisors with approval as filed with the County Clerk with the following amendment to Section 4.03:

**Sec. 4.03. STREET, ROAD AND OTHER RIGHT-OF-WAY.** The location of major highways, streets, roads and other rights-of-way shall conform to the locations designated in the Comprehensive Plan. Unless designated a higher use in the Comprehensive Plan, all proposed or existing roads, whether previously vacated or unopened, located upon section lines shall minimally be considered rural minor collectors.

The minimum right-of-way widths shall be as follows:

Type	Right-of-Way Width
State and Federal Highways	180 feet
Rural Principal Arterials	80-100 feet
Rural Minor Arterials (Paved and potential paved streets and roads shown on future Street and Road Network Maps in the Comprehensive Plan.)	80 feet
Rural major collectors	80 feet
Rural minor Collectors	80 feet
Minimum Maintenance Interior streets of land	80 feet
Sought to be subdivided	66 feet
Cul-de-Sacs	66 foot radius
Alleys	20 feet

When streets and roads adjoin unsubdivided property, a half right-of-way of at least forty (40) feet in width may be dedicated. Whenever subdivided property adjoins a half right-of-way, the remainder of the street shall be dedicated. Half rights-of-way should be avoided.

In all cases of permanent dead-end streets and roads, cul-de-sac rights-of-way shall be dedicated. Streets and roads ending in a cul-de-sac shall not be longer than six-hundred (600) feet.

Alleys shall not be provided in a residential subdivision except under very unusual conditions. Alleys may be required in the rear of commercial lots.

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

Motion by Wolfe, seconded by Covalt to adopt the Buffalo County Subdivision Regulations and forward to the Buffalo County Board of Supervisors with approval as filed with the County Clerk and correcting the index as needed. Voting yes were Wolfe, Covalt, Biehl, Heiden, Keep, Pope, Skov and Steinbrink. Voting no: none. Absent: Wietjes. Motion carried.

Old Business: Moved by Skov, seconded by Wolfe to approve the minutes of the March 17, 2005 meeting and March 29, 2005 work session as mailed. Voting yes were Skov, Wolfe, Biehl, Covalt, Heiden, Keep, Pope and Steinbrink. Voting no: none. Absent: Wietjes. Motion passed.

New Business: The Planning & Zoning Commission recognized and congratulated Andrew Hoffmeister, Deputy County Attorney, upon the "Appointed Official Award for 2005" which he received at the annual Nebraska Planning & Zoning Association conference. They thanked him for the many hours of service to Buffalo County in all the work he has done with zoning.

Paul Steinbrink discussed the meeting he attended at the annual NPZA conference.

The next meeting of the Planning & Zoning Commission will be May 19, 2005 at 7:00 P.M. at the Highway Department.

Motion by Covalt, seconded by Steinbrink to adjourn at 9:25 P.M.