

MINUTES OF PLANNING & ZONING COMMISSION
AUGUST 21, 2003
BUFFALO COUNTY HIGHWAY DEPARTMENT
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:05 o'clock P.M. with a quorum present on August 21, 2003 at the Buffalo County Highway Department Building in Kearney, Nebraska.

Agenda for such meeting was regularly posted as required by law. Present were: Francis "Buss" Biehl, Marlin Heiden, Gene Jamison, Rick Pope and Paul Steinbrink, Sr. Absent: Carson Fitzgerald, Craig Nickman, Richard Weiss and Loye Wolfe. Also attending were Deputy County Attorney Andrew Hoffmeister, Buffalo County Zoning Administrator LeAnn Klein and forty-four members of the public.

The public forum was opened at 7:05 P.M. Marv Reichert spoke to the Commission concerning his opposition to the 1000' between dwellings in AG district. John Martin also expressed his concerns about the 300' notification not being sufficient. The public forum closed at 7:14 P.M.

Deputy County Attorney Andrew Hoffmeister brought up the discussion of Hidden Valley Estates within the one-mile jurisdiction of the Village of Pleasanton. Motion was made by Biehl, seconded by Steinbrink that Buffalo County Planning & Zoning Commission would take no position or comment at this time. Voting yes were Biehl, Steinbrink, Heiden, Jamison and Pope. Voting no: none. Absent: Fitzgerald, Nickman, Weiss & Wolfe. Motion passed.

Chairperson Pope opened the public hearing at 7:15 P.M. for the Phyllis L. Broadfoot change of zoning request for 7.02 acres in the part of East Half of Section 19, Township 9 North, Range 17 West of the 6th pm. Mrs. Broadfoot is requesting a change of zoning from (A) agricultural to (AGR) agricultural-residential.

Ron Tvrdik, representing Mrs. Broadfoot, told the Board what her intention is. He apologized for no one appearing at the first hearing on June 19, 2003. She wishes to subdivide an area into two separate lots for her two sons to build homes. Of her entire property that she owns, this area is the only area suitable for building. The rest is either pasture land with ravines or is off minimum maintenance roads. Mr. Tvrdik stated Mr. Wilson, who owns property south of Mrs. Broadfoot, filed a survey back in October of 2002 and this area is already broken off into lots. Mr. Tvrdik also stated that this will not change the character of the land. Deputy Attorney Hoffmeister stated this is a use by right as per 5.12 #5 but might create problems if this property is sold to a non-relative. No one else spoke in opposition to this. The hearing closed at 7:35 P.M.

After discussion, it was moved by Heiden, seconded by Biehl to forward this application to the County Board with recommendation to grant the change in zoning from AG to AGR on this property. The stipulation would be only one house per lot for a total of two lots and to approve this plat as submitted. Voting yes were Heiden, Biehl, Jamison, Pope and Steinbrink. Voting no: None. Absent: Fitzgerald, Nickman, Weiss and Wolfe. Motion passed.

Chairperson Pope opened the public hearing at 7:42 P.M. for the M.J. Shultz change of zoning request for South Half of the Northeast Quarter (S1/2 NE1/4) of Section 13, Township 11 North, Range 16 West of the 6th pm. Mr. Shultz is requesting a change of zoning from (A) agricultural to (AGR) agricultural-residential. Casey Sherlock, in the absence of Mitch Humphrey from Buffalo County Surveying Corporation, explained what Mr. Shultz intentions were. Mr. Shultz would like to re-zone this area so he could make 3-5 acre lots which would be about 18 lots for this 80 acre tract to be used for residential homes. No lots would be smaller than three acres; they would have individual water wells and septic systems and have one drive way off Hawk Road leading into the subdivision. Casey said it would be a positive economic development and also would contribute added valuation to the Pleasanton school system. This area would be only 1 ½ miles from Hwy 10.

Public comments were made by adjoining landowners. Russell Dixon said he has a 160-180 cow/calf operation north of this area and also uses the pasture west of this property. He stated the drainage from his property would run onto Mr. Shultz's property and the noise from the cattle would also affect this area. John Martin also expressed his concern on the impact these 18 homes would have on this area. He said he also raises cattle and in this area there are approximately 750-1000 head of cattle. Lynn Martin also said this is not a place to have a subdivision. He stated there are empty lots in the subdivision surrounding the Pleasanton golf course area and also in the new proposed subdivision southwest of Pleasanton that is still available.

Pope said this is spot zoning. Biehl stated that he lives about four miles south on Hawk Road and the amount of traffic already on this road is a concern. Jamison and Heiden also agreed that roads are a problem and said there are lots of cattle in this area.

Chairperson Pope closed the hearing at 8:09 P.M. Moved by Steinbrink, seconded by Biehl to forward this application to the County Board with a recommendation that this application for a change of zoning be denied on the basis that this request would be spot zoning. Voting yes were Steinbrink, Biehl, Heiden, Jamison and Pope. Voting no: none. Absent: Fitzgerald, Nickman, Weiss and Wolfe. Motion passed.

Chairperson Pope opened the public hearing at 8:20 P.M. for the application for a special use permit for Cody Kennedy and Roy W. Long for a salvage yard for a ten acre piece in the North half of the Southwest quarter (N1/2 SW1/4) of Section 6, Township 10 North, Range 17 West of the 6th pm. Cody explained that cars would be dismantled inside a building, oil would be re-cycled, gasoline would be run through a re-use burner to heat the building, fluids would be taken out of vehicles within five working days, he would have the necessary bond required by the State, and would be crushing cars probably once per year. He also submitted a drawing for the proposed salvage yard and explained that it would be within the guidelines required by the State of Nebraska. Pope questioned the one-mile distance from residences now currently in the zoning code. Hoffmeister stated we would need to address that problem and have a request to amend the code and also have a waiver signed by either property owners or residents within one mile. Andy asked about the number of employees. Kennedy said he probably would employ between four-five people and would have one pay loader. Jamison said there is good access to this property and since he is a neighbor on the north, is not opposed to this. Heiden questioned the

flow of water to the Wood River. Cody said this would not be a problem. Klein also stated that there is a floodplain west of this area. Kennedy also said he would have an 8' fence around this area, which is required by the State.

Public comments were made by adjoining landowners. Merle Wuehler questioned the fence and how far it would be from the property line. Merle Wuehler questioned what it does to land values in the area. Jack Simmons is opposed to the salvage yard and thought it should be away from the highway. Jan Rodehorst is opposed to this since they own property north of this and would be overlooking this property. Marv Reichert stated there is a need for salvage yards.

Chairperson Pope closed the hearing at 8:55 P.M. The Board discussed the one mile restriction. Motion was made by Biehl, seconded by Heiden to table this application pending presentation of submittal of proposed amendment to be submitted by Cory Kennedy. Voting yes were Biehl, Heiden, Jamison, Pope and Steinbrink. Voting no: none. Absent. Fitzgerald, Nickman, Weiss and Wolfe. Motion passed.

Chairperson Pope opened the public hearing at 9:00 P.M. for the application for a special use permit for Jared & Mona Axmann for a residence and building for their trucks for a ten acre tract in the northwest corner of the NE 1/4 of Section 30, Township 9 North, Range 16 West of the 6th pm. Axmann explained where the buildings would be placed, there would be no refrigeration units, he wanted better access to the interstate, he will re-cycle oil, there would be no fuel storage, he will fix tires on site, he will have a shelter belt and the home will be situated toward the south part of this lot. Heiden asked about what he hauled. Axmann said he hauled agricultural-related products, liquid fertilizer, rocks, salt and grain. Hoffmeister stated this is a low impact area and is a residential area first. Hoffmeister questioned the total tonnage he hauls and how many employees he would have. Axmann said his trucks are 47 tons and he has between two and three employees.

The hearing was then opened to members of the public. A realtor, Deb Jesch, stated there are many expensive homes south and southeast of this area and it would change the residential flavor. Mark Gardels and Steve Linden thought this would be a good buffer between the landfill and other residences. Victor Karg thought the noise of the trucks would be a factor for other residences. Darrel Karg stated that there were very nice homes up and down Cottonmill Road.

Pope closed the hearing at 9:27 P.M. Hoffmeister told the Board they could stipulate requirements for this special use permit. Heiden wanted a drawing of the proposed house and building. Axmann submitted a proposed drawing to the Buffalo County Planning & Zoning Commission. After discussion, it was moved by Biehl, seconded by Jamison to forward this application to the County Board with a recommendation that this special use permit be approved as per attached drawing submitted by Mr. Axmann. An amendment was made by Heiden, seconded by Jamison to add the following conditions to the previous motion.

1. This is a primary place for residences.
2. This is a low impact area – this special use permit is not for a truck terminal.
3. No hazardous materials on property.
4. No refrigeration units allowed on property
5. All vehicle maintenance work is to be done in an enclosed area.

6. No tires stored outside.
7. Limit of two years after the County Board hearing to complete buildings.
8. Evergreen windbreak as per drawing submitted.
9. A total of 3 tractors and 4 trailers to be parked outside only.
10. A total of four non-family members' vehicles to be parked on property.
11. Only hauling of agricultural materials allowed.

Voting yes were Heiden, Jamison, Biehl, and Pope. Voting no was Steinbrink. Absent: Fitzgerald, Nickman, Weiss and Wolfe. Amendment passed.

Voting yes on original motion were Biehl, Jamison, Heiden, Pope. Voting no was Steinbrink. Absent: Fitzgerald, Nickman, Weiss and Wolfe.

Old Business: Moved by Heiden, seconded by Biehl to approve the minutes of the July 17, 2003 minutes. Voting yes were Heiden, Biehl, Jamison, Pope and Steinbrink. Voting no: none. Absent: Fitzgerald, Nickman Weiss and Wolfe. Motion passed.

Gene Jamison left the meeting at 10:15 p.m.

The Board discussed changes and possible amendments to zoning regulations concerning commencement date and completion date of zoning permits and special use permits. In case of protest for special use permits, a deadline of seven days was added to file a protest with the County Clerk. Time limitations for variances were also discussed. Discussion and possible amendments to zoning regulations regarding commercial lot size, height and minimum area regulations were discussed. It was noted that the lot area be 70,000 square feet, lot width be changed to 100', required front yard to greater than 50' or 83', and required side yard to 15' except if it abuts road, then it would be 50'. The word "and loading" be added to 5.58 and the area required to unload was also discussed.

The 1000' setback distance in AG districts was discussed. A use by right would be allowed for single dwellings and one additional single/two family dwellings for the purpose of housing relatives or permanent agriculture workers would need to be in same ownership. They discussed notification of adjoining property owners in AG and AGR and "Comstock" type events.

Accessory use in AGR was also discussed. Two other items that need to be addressed are "R" districts and airports in AGR districts.

The Planning & Zoning Commission will be holding a public hearing to address these items and forward these changes to the County Board at a later date.

The meeting adjourned at 10:45 P.M.

The next meeting of the Planning & Zoning Commission will be September 18 at 7:00 P.M. at the Buffalo County Highway Department. Chairperson Pope announced he will not be able to attend the next meeting.