

MINUTES OF PLANNING & ZONING COMMISSION
MARCH 18, 2004
BUFFALO COUNTY HIGHWAY DEPARTMENT
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:04 o'clock P.M. with a quorum present on March 18, 2004 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, Rick Pope, Leonard Skov, Paul Steinbrink, Sr., Craig Wietjes and Lloy Wolfe. Absent: Gene Jameson. Also attending were Deputy County Attorney Andrew Hoffmeister, Buffalo County Zoning Administrator LeAnn Klein and seven members of the public.

The public forum was opened at 7:05 P.M. There was no one present to speak.

Chairperson Pope opened the public hearing at 7:06 P.M. for a request for a change of zoning request from agricultural to agricultural-residential filed by Ernest L. Hartley for property described as a tract of land being part of Northeast Quarter of Section 14, Township 12 North, Range 13 West of the 6th pm in Buffalo County Nebraska containing 21.26 acres, more or less.

Mr. Hartley presented a brief overview of his request. This area is located on St. Michael road, about ½ mile north of Highway 2 and ½ mile south of railroad. This is a mail and bus route, soil type is mostly valentine which is fair to good for foundations. Drinking water is from a 350' deep well. Proposed re-zoning would affect traffic very little. The existing use of this land is hobby farm/ranch with single family dwellings and recreational uses only. He would like to see Planning & Zoning Commission delete the 1000' requirement which would allow additional houses for his relatives. He would like to break this up into five parcels, with the smallest being 3.9 and the largest being 5.68 acres.

Skov questioned if an approved subdivision could be put in an agricultural zone. He questioned the wording in 5.12 #5 "within approved subdivision". He also questioned if this would be spot zoning. An easier solution would be to allow a subdivision.

Hoffmeister stated Buffalo County does not have zoning regulations for subdivisions in place yet but it would have to be re-zoned to AGR to allow houses closer then 1000' with a total of four homes per quarter.

Pope questioned the number of homes Mr. Hartley wants to build. Previously he had stated he wanted to put one additional home but now he is asking for possibly five more homes. Pope questioned what type of homes they would be and Hartley said they would be permanent homes. Presently there are already three homes already located on this property. With the trailer home located across the road, there are already four homes in this quarter.

Biehl agreed that spot zoning is getting a black eye. He questioned how condusive is this to a prime piece of agricultural land since this is an irregular parcel of land made up of mostly sand.

Heiden questioned how far this land was from residential land. It is close to the Isaac Walton land as well as land in St. Michael which is unincorporated. Hoffmeister stated he could see additional housing in this area in the future.

Vernon Moss spoke in opposition to this request for re-zoning. He listed the following reasons:

1. Concern how this would effect property taxes
2. Questioned the number of additional homes
3. Questioned the availability of water available during irrigation season
4. Concern of trespassing
5. Disposal of sewage in this sandy soil
6. Problem with stray dogs

Lurlie Campbell, who lives about 3 miles away and rents pasture adjoining this property, questioned the following:

1. Questioned re-building in event of fire or loss
2. Why this is classified agricultural when no agricultural products are being raised
3. No stable ground to allow for additional homes, land would have to be leveled
4. Questioned future use and wetlands

She also expressed concern voiced by her brother, Walt Stoeger who owns the pasture adjoining this property.

1. Acreages already border his land
2. Each owner needs to keep their fence in good repair
3. Livestock is already being harassed
4. Will dogs be confined to this area

Janet Stoeger Wilke also questioned the future development in this area and how many houses would be allowed in the event they would want to develop this area.

Frank Stoeger did state that there is a wetlands restoration project in the works for 72 acres of his property which is located to the north of Hartley's property.

Allen Foster, owner of the proposed house, told the Commission he does have dogs but they would be kenneled. He said they are already at this property on week-ends so it would not add to the additional traffic.

The public hearing closed at 8:10 PM.

Hoffmeister reminded the Commission about the following items.

1. After this meeting, it will be forwarded to the County Board
2. There are three current residences at this location. If at a later time when these cease to be related, there would be a problem re-building.
3. If County Board does re-zone, can specify number of houses
4. No guarantee that this does not become AGR in future
5. This area is close to paved road

6. County Board can make any decision they wish if this Commission does not by a majority vote of it, i.e. 5 votes recommend to approve or recommend to deny. A majority vote is controlling on the County Board in that in such case it is limited in action to a “yes”, “no”, or re-submit to Planning Commission.

Biehl said this area is not conducive to farming because of the irregular shape but is more conducive to building sites.

Heiden inquired about the number of lots that are being proposed.

Steinbrink, Wolfe and Skov all questioned how many houses could be added under the relative clause.

Klein also questioned the total number of homes under the relative clause that could be added to one piece of property.

Hoffmeister stated they could add additional homes under the relative exemption. Currently there are three homes with the possibility of adding an extra house for each home under the relative clause for a total of three houses for relatives. He said this could be read either way.

Moved by Skov, seconded by Biehl to recommend denial of this application and forward to the County Board this change of zoning request submitted by Ernest L. Hartley for property described as 21.26 acres more or less in the Northeast Quarter of Section 14, Township 12 North, Range 13 West of the 6th pm. Voting yes: Skov, Biehl, Covalt, Heiden, Pope, Steinbrink, Wietjes and Wolfe. Voting no: none. Absent: Jameson. Motion passed.

Old Business: Moved by Biehl, seconded by Covalt to approve the minutes of the February 19, 2004 meeting with the exception of one typographical error noted by Klein. Voting yes were Biehl, Covalt, Heiden, Pope, Steinbrink and Wietjes. Abstain: Skov and Wolfe. Voting no: none. Absent: Jameson. Motion passed.

The Commission discussed livestock and livestock waste regulations. They also discussed the need to get subdivision regulations passed.

Skov stated he thought the original intent of this Commission was to protect farming and this is not being done. We need to address this problem. Have the zoning regulations drifted away from the philosophical intent of this Commission? We need to look at the goals of this Commission. The Commission discussed some changes that do need to be changed in the Comprehensive Plan. This County is one of the fastest growing areas in the State and needs to be addressed. This was discussed at length.

Wietjes said there is a need for a commercial corridor in this County.

Wolfe asked if we could have a work session with the County Board to work through some of these problems.

The Commission also discussed public utility and utility grids in AGR and AG. Hoffmeister said we need to relax the three acre requirement for public utilities and would prepare amendments for consideration of this Commission.

Golf Courses and recreational reservation was also discussed. We need to think about the density requirement per quarter.

The Commission then discussed the residential setback.

New business: A thank you was read from Mr. Skov for the plant received from the Commission at the time of his wife's death.

Skov also presented a possible process for the applications received for zoning change requests. This could detail the application and identify the specific decisions that the Commission must consider and identify any similar applications that have been presented to the Commission and the actions that are needed, identify any unusual issues that need to be considered and identify the options available to the Commission. This might save much time in the hearing process. Klein will look into this process.

Steinbrink noted he will be gone from this area and will be back in September. He asked if the Commission would like his resignation and he was told no. Skov will be absent at the April meeting.

The next meeting of the Planning & Zoning Commission will be April 15, 2004 at 7:00 P.M. at the Highway Department.

Motion by Biehl, seconded by Heiden to adjourn at 9:35 P.M.