

MINUTES OF PLANNING & ZONING COMMISSION
JULY 15, 2004
BUFFALO COUNTY HIGHWAY DEPARTMENT
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:02 o'clock P.M. with a quorum present on July 15, 2004 at the Buffalo County Highway Department Building in Kearney, NE.

Agenda for such meeting was regularly posted as required by law. Present were: Marlin Heiden, Rick Pope, Leonard Skov Craig Wietjes and Loye Wolfe. Absent: Francis "Buss" Biehl, Karin Covalt, Gene Jameson and Paul Steinbrink, Sr. Also attending were Deputy County Attorney Andrew Hoffmeister, Buffalo County Zoning Administrator LeAnn Klein and four members of the public.

The public forum was opened at 7:03 P.M. There was no one present to speak. The public forum closed at 7:03 P.M.

Chairperson Pope opened the public hearing at 7:04 P.M. for a change of zoning request filed by Francis M. Vavra for property located in part of the Northeast Quarter of Section 11, Township 10 North, Range 17 West, Buffalo County Nebraska containing 8.184 acres, more or less.

Surveyor Trenton Snow, representing Ben and Jill Vavra spoke on behalf of Ben and Jill and Francis Vavra, the property owner. He stated Ben and Jill would like to build one additional house in this area. At the present time, there is a rental home currently on this property and because of the zoning requirements which require 1000' between homes in a quarter; this additional home would not be allowed. Snow said Ben Vavra did go around to all the adjacent neighbors and had submitted a signed copy of all the neighbors that they were not opposed to this additional home. This property is currently ½ mile and 1 ½ mile from two lines of the residential zoning. Skov questioned if the "relative in the backyard exemption" could apply and it could not because the owner does not live in the rental house and because of bank requirement they would want to put this against just the proposed home and not the entire property.

Ben Vavra said that he had talked to the neighbors and there was no opposition. They also had done a lot of work in cleaning up the area. His father, Francis was planning on renting out the home in the immediate future and possibly upon retirement, might be moving into the rental house himself.

Covalt arrived at 7:06 p.m.

Klein referenced this area on the map and also noted the pictures which she had taken of this area. Klein commented that one additional home would not change the flavor of the neighborhood.

Wietjes did state that he had also spoken to neighbors and no one had any objections. He also stated he does not foresee farmers selling any additional pieces off in this area.

Heiden questioned if this entire area should be changed to AGR. He also questioned how this would affect the taxes in this area. This has been split off from other farm ground for a number of years.

Hoffmeister said property sold as AGR inside AG districts will not adversely affect the overall valuation for the district. Parcels under 20 acres are not being taxed as AG property so this should not affect AG property in the area.

Pope also questioned if this would be spot zoning. He said one additional home will not harm this area but we need to be aware of cattle feeding operations in this area.

Hoffmeister stated they tried to put the AGR line on the ½ mile line and they just drew a line the best they could. He reiterated that this area is ½ mile from one residential zoned area and 1 ½ miles from another residential zoned area and is in close proximity to Amherst. If another application is received later, then the entire area could be re-zoned.

Wolfe said we do need to consider these on a case to case basis in the matter of re-zoning.

There was no one else present to voice their complaint.

Pope closed the hearing at 7:30 P.M.

Moved by Skov, seconded by Heiden to recommend approval and forward this application to the County Board for a change of zoning request to rezone this area from agricultural to agricultural-residential for property described as a tract of land located in the Northeast Quarter of Section 11, Township 10 North, Range 17 West of the 6th p.m., Buffalo County Nebraska, described as follows: Beginning at the Northwest corner of the Northeast Quarter of said section and assuming the north line of said Northeast Quarter as bearing East and all bearings contained herein are relative thereto; thence East on the North line of Northeast Quarter of said section a distance of 1026.0 feet; thence S 00° 28' E a distance of 557.22 feet; thence S 61° 44' W a distance of 22.3 feet; thence 58° 33' 30" W a distance of 194.65 feet; thence N 40° 10' W a distance of 348.7 feet; thence 86° 42' 30" W a distance of 90.4 feet; thence S 46° 33' 30" W a distance of 138.0 feet; thence S 83° 01' a distance of 52.25 feet; thence S 76° 19' W a distance of 387.0 feet to a point on the West line of the Northeast Quarter of said section; thence N 00° 14' W and on the aforesaid West line a distance of 387.35 feet to the place of beginning. Containing 8.184 acres, more or less, of which 0.777 acres more or less, are presently being used for road purposes. The reason is because this is in close proximity of two AGR lines. The restriction will be that there will only be a total of two homes in this area.

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

Old Business: Moved by Heiden, seconded by Covalt to approve the minutes of the June 17, 2004 as mailed. Voting yes were Heiden, Covalt, Pope, Skov, Wietjes and Wolfe. Voting no: none. Absent: Biehl, Jameson and Steinbrink. Motion passed.

Chairperson Pope opened the public hearing for consideration of general amendments to zoning regulations for Buffalo County at 7:35 P.M. There were no members of the public present to speak. The public hearing closed at 7:36 P.M.

The following three amendments were presented to the Commission for discussion for provisions relating to public utilities in AG and AGR and allowance of a smaller lot size for such uses, elimination of “backyard” relative as use of right in AGR districts and the ability to place conditions on re-zoning.

Moved by Wolfe, seconded by Wietjes that 5.16, 5.34, 5.36, 5.32 and 11.3 be amended to read as follows and forward to the Buffalo County Board of Supervisors for a public hearing. Voting yes were Wolfe, Wietjes, Covalt Heiden, Pope and Skov. Voting no: none. Absent: Biehl, Jameson and Steinbrink. Motion carried.

5.16 MINIMUM LOT REQUIREMENTS

1. The minimum lot area for AG uses shall be three (3) 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, ranging, 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 four 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 four 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.

5.34 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:

1. Agricultural service establishments primarily engaged in performing agricultural,

- animal husbandry or horticultural services;
- 2. Cemeteries, crematories, mausoleums and columbarium;
- 3. Child care center;
- 4. Radio and television towers and transmitters;
- 5. Camp grounds;
- 6. Wind generating systems;
- 7. Commercial kennels;
- 8. Public and private charitable institutions;
- 9. Greenhouses and nurseries;
- 10. Animal clinics, animal hospitals and veterinarian services; and
- 11. Mobile home parks.
- 12. Mini storage facilities (Resolution 5-27-03)
- 13. Parks and recreational areas owned and/or occupied by private agencies. (Resolution 10-10-03)
- 14. Airports (Resolution 10-10-03)
- 15. Public utilities and utility distribution systems

5.36 MINIMUM AREA AND YARD REQUIREMENTS:

- 1. The minimum lot area for AGR uses shall be 3 acres*. All improved uses, other than general farming, ranching, pasturing, etc, shall be adjacent to an improved county road (above minimum maintenance road).
- 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.

Rear Yard: There shall be a minimum rear yard of fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be fifty (50) feet.

*When a proposed subdivision utilizes a shared or “community” drinking water and sewage system the minimum lot area may be reduced to one (1) acre subject to review and compliance by the Nebraska Department of Health.

3-acre minimum in a proposed and approved subdivision may be reduced to 70,000 square feet subject to review and compliance by Nebraska Department of Health and approval of County Board.

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.

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 and classified in Section 6.4.
2. Single family, ranch, and farm dwellings adjacent to 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;
3. Irrigation and flood control projects;
4. Child care homes;
5. Parks and recreational areas owned and/or occupied by public agencies; (Resolution 10-10-03)
6. Community buildings and/or facilities owned and/or occupied by public agencies;
7. Public and/or private schools;
8. Churches, places of worship, and cemeteries; and
9. Bed and Breakfast.

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 amending zoning district boundaries, the Planning Commission and County Board where applicable and authorized may place conditions upon property sought to be re-zoned.

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.

A discussion was held on the subdivision regulations. Skov stated there needs to be some planning in the process. Hoffmeister suggested a committee be formed to work on subdivision regulations. Letters will be sent out to area surveyors, representatives from the City of Kearney and a land developer to see if they would be willing to serve on this committee. Skov agreed to chair this committee and Heiden, Hoffmeister and Klein will also serve on this committee. They hope to meet before the next regular meeting.

There was no discussion on livestock & livestock waste regulations or residential setback distance in AG districts.

The next meeting of the Planning & Zoning Commission will be August 19, 2004 at the Highway Department. Motion by Wolfe, seconded by Covalt to adjourn at 8:19 P.M.