

MINUTES OF PLANNING & ZONING COMMISSION  
DECEMBER 15, 2005  
BUFFALO COUNTY HIGHWAY DEPARTMENT  
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:00 o'clock P.M. with a quorum present on December 15, 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, Marlin Heiden, Willie Keep, Rick Pope, Paul Steinbrink, Craig Wietjes and Loye Wolfe. Absent: Leonard Skov and Karin Covalt. Also attending were Deputy County Attorney Andrew Hoffmeister, Deputy County Attorney Melodie Bellamy and Zoning Administrator LeAnn Klein and 13 members of the public.

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

Chairperson Pope opened the public hearing at 7:01 P.M. for a request of zoning map amendment filed by Shofstall Alfalfa, Flag, LLC and Agri Coop for property described as all the property south of the Union Pacific Railroad right-of-way in Section 34, Township 9 North, Range 17 West of the 6<sup>th</sup> P.M., Buffalo County Nebraska. They wish to rezone this area from Agricultural Residential (AGR) to Industrial (I).

Eugene Spencer, a representative from Shofstall Alfalfa, was present and told the Commission they would like to build a structure for storage to expand their business. He stated this is directly south of the Union Pacific Railroad right-of-way located between Odessa Road and Eagle Road north of 24<sup>th</sup> Road located in Section 34 of Odessa Township.

Hoffmeister asked how wide the railroad right-of-way is which Spencer replied the right-of-way is 300' in width.

Klein noted that she had two calls from adjoining neighbors who questioned if their taxes would be increased and what the proposed structure would be used for. Klein checked with the County Assessor who had said they assess by land use. She stated this area is already an industrial nature already and because of the current zoning of Agricultural-Residential, they would not be able to put up a building.

Heiden asked about the total number of acres which Spencer said was about 20 acres total.

Biehl asked if there would be an additional drive way which Spencer replied no.

Pope asked if Flag LLP and Agri Coop plan to expand, which Spencer said he didn't think they were at this time. He also asked how close to the nearest residence. There are residences west of Odessa Road and a residence on the south side of 24<sup>th</sup> Road. There are public roads between this area and current residences.

Keep asked what type of storage and was told it would be for the storage of saw dust.

Richard Goodell, who lives in the residence to the south, questioned if it is changed to industrial his concern was it opens it up to anything industrial.

Pope replied once the zoning is changed, it does open this area up to an industrial nature.

Hoffmeister replied the businesses that are currently located at this location are grandfathered in. He referred to Section 5.62 and Section 5.64 of the zoning regulations.

Pope closed the hearing at 7:15 P.M.

Wolfe stated most of the area is already industrial in nature. She asked the exact location of the proposed building which would be south of existing building. He said the saw dust will be blown underground through a pipe to the storage building.

Biehl questioned what per cent of this area will be utilized. Spencer said they are planning on putting up a 60' x 150' building.

Pope asked about the noise and Spencer said everything will be contained in the building.

Motion was made by Biehl, seconded by Wolfe to forward this application to the County Board to recommend an amendment of zoning map from Agricultural Residential (AGR) to Industrial (I) for property described as all the property located south of Union Pacific Railroad right-of-way located in Section 34, Township 9 North, Range 17 West of the Sixth Principal Meridian, Buffalo County, Nebraska.

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

Klein said this would be heard before the County Board on January 10 and letters would again be mailed to all adjacent property owners.

Chairperson Pope opened the hearing at 7:20 P.M. for a special use permit filed by Shane Roach and Jared Axmann for property located in part of the Northeast Quarter of the Northwest Quarter and part of Government Lot 1, located in Section 30, Township 9 North, Range 14 West, Buffalo County Nebraska.

Shane Roach handed out two drawings, one for parcel 8 and one for parcel 9. Jared Axmann would use Lot 8 for truck trucking and Shane would use lot 9 for equipment storage. They would also plant a shelter belt that they would maintain and guarantee that the trees would be maintained. He would store a 20' gooseneck trailer, a concrete truck and would put up a 24' x 30' building in the northwest corner of lot 9. They would jointly own this property and would utilize this land and keep everyone happy.

Jared Axmann would put up a 50' x 90' building in the northwest part of lot 8. He wants to park trucks and trailers on lot 8. He would do general maintenance, drive-way would be rocked and he would have a mercury light on the building. He would have 6 tractors and 8 trailers. He has been looking for a place in Buffalo County the last few years which would have good access to Highway 30 and I-80 and is away from a city or town. They would share a well.

Klein stated that the lots could not be split for individual ownership because of the 3 acre minimum requirement.

Cindy Shultz spoke in opposition. They have concerns because in the past promises have been made but not kept. Other concerns were hours of operation and dust. This would be 200' from their bedroom window. Lighting is also a concern.

Rod Gangwish also has concerns. They have concerns about jointly owned property. Their son parks trucks on their property. A previous concern was the use does not fit in with the neighborhood. Provisions prior to this date have not been enforced. A private citizen shouldn't have to file a private suit.

Jane Gangwish stated traffic problems already exist; and there has been a fatality and accidents at this location.

Neil Koster commented that accusations have been made and he has followed all the regulations. There are no places in Kearney or Buffalo County to park trucks. He has seen turkey trucks parked on Gangwish's property. Are these farm trucks? The County has concerns about trucks on county roads. There are already commercial trucks parked east of Shultz's property. Highway traffic is not the County's concern; it is the State's problem. He has rented to three parties in the past seven years at his previous location and they never had a problem with accidents. The reason there are accidents is because trains block the intersection of Hwy 30 and Highway 10. He agreed there is a traffic problem but the County is not going to solve it. Numerous trucks are parked currently in residential area in Kearney. Where are these trucks suppose to park? He presented pictures of the trees he has planted on his property north of his building. He said there is space available on the property that is already zoned commercial.

Axmann agreed that he had been approached about parking his trucks on the commercial piece of property but he wants to be able to put up a building and purchase a piece of property instead. Currently he parks his trucks on the property owned by Blessing Construction located adjacent to the airport but that is just a short term solution.

Monty Shultz reminded them of the restrictions placed on the previous application that Jared had filed for.

Roach said the lots are farther away from the Shultz's house than what they are to Highway 30 and the railroad. If they are hearing trucks it is from Highway 30. The access road is farther away. He presented a drawing which shows the distance to either residence.

Pope read two letters of opposition into the record, one from Thomas & Judith Hays, and one letter from Robert Lewis. Lewis's property is not directly adjacent to this property but he does own property to the northeast.

Deputy County Attorney Hoffmeister ruled that these letters do not constitute a formal protest. Someone must appear in person to represent that person so questions may be asked by the Commission.

Koster said land values of this property have increased in value the last two years.

Chairperson Pope closed the public hearing at 7:50 P.M.

Chairperson Pope read the conditions placed by the Commission on a previous application made by Axmann.

Klein noted the previous application submitted by Axmann was located in an Agricultural-Residential (AGR) area, this area is in an Agricultural (A) area.

Biehl agreed there is a definite need for truck parking in Buffalo County and the County cannot operate without trucks.

Keep asked what type of product Axmann hauls and was told by Axmann that he hauls grain and fertilizer. These trailers would not be washed out at this location.

Wietjes agreed that this intersection does have problems with traffic but he also has concerns about putting too many conditions on a special use permit. He also asked Axmann about the conditions the Commission put on his previous application.

Axmann said the reason the previous application was withdrawn by him was they couldn't complete the building within the two year requirement.

Wolfe asked about attaching the wording of the proposed 6.5 regulation to this motion.

Pope also agrees there is a problem with truck parking, the amount of traffic from Highway 30 that is in close proximity of the Shultz's property and the concerns of the Gangwish & Shultz families. He questioned the joint ownership between Roach and Axmann.

Roach said they would jointly own the property and would have a legal agreement between the two of them.

Axmann reiterated there would be 6 tractors and 8 trailers parked overnight, everything will be stored inside the building and he will be working on the tractors inside the building.

Pope asked that Axmann and Roach sit down with the Shultz and Gangwish families to work out some of these issues.

Moved by Biehl, seconded by Heiden to forward this application to the County Board with the recommendation that this special use permit received from Shane Roach & Jared Axmann for property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter and part of Government Lot 1, located in Section 30, Township 9 North, Range 14 West of the 6<sup>th</sup> P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of Government Lot 1 in Section 30, and assuming the West line of Government Lot 1 as bearing S00°09'34" W and all bearings contained herein are relative thereto; then S 00°09'34" W and on the West line of said Government Lot 1, a distance of 372.85 feet; thence S 89°29'20" E and parallel with the North line of said Government Lot 1 a distance of 1102.02 feet to the ACTUAL PLACE OF BEGINNING; thence continuing S 89°29'20" E and parallel with the North line of said Government Lot 1, a distance of 150.18 feet; thence N 00°09'34" E and parallel with the West line of said Government Lot 1 a distance of 96.91 feet; thence S 89°29'20" E and parallel with the North line of said Government Lot 1 a distance of 373.17 feet; thence S 04°30' E a distance of 11.73 feet to a point being N 04°30' W a distance of 313.5 feet from the North line of the Union Pacific Company's Right-of-Way; thence S 89°05'44" E a distance of 323.0 feet to a point being N 04°30' W a distance of 214.5 feet from the North line of the Union Pacific Railroad Company's Right-of-Way; thence N 04°30' W a distance of 290.95 feet to a point on the North line of the Northwest Quarter of said Section 30, said point also being westerly a distance of 670.23 feet from the Northeast Corner of the Northwest Quarter of said Section 30; thence N 89°29'20" W and on the North line of said Northwest Quarter a distance of 653.67 feet to the Northwest Quarter of the Northeast Quarter of the Northwest Quarter of said Section 30, said point also being the Northeast Corner of Government Lot 1 in said Section 30; thence N 89°29'20" W and on the North line of said Government Lot 1 a distance of 171.08 feet; thence S 00°09'34" W and parallel with the West line of said Government Lot 1, a distance of 372.84 feet to the place of beginning is approved with the following condition:

If the Zoning Administrator finds at any time that the terms, conditions and requirements of a special permit have not been complied with, or that any phase thereof has not been completed within the time required under said special permit or any amendment thereto, the Zoning Administrator shall report this fact to the County Board, which may after a hearing of which the permittee and/or entity using such property shall be notified, revoke such special permit for failure to comply with such terms, conditions and requirements, or take such other action as it may deem necessary to obtain compliance.

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

Hoffmeister reminded the Commission the County Board is free to do anything they want.

Klein said this application will be heard at the January 10 County Board meeting and letters will again be sent to adjoining property owners.

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

Hoffmeister discussed other proposed changes for the zoning regulations which hopefully a hearing will be held at the February meeting.

New Business: Klein reported to the Commission on other items.

The next meeting of the Planning & Zoning Commission will be January 19, 2006 at 7:00 P.M. at the Law Enforcement Center in Kearney. Please note the change in location for this meeting only.

Motion was made by Steinbrink to adjourn at 8:35 P.M.