

MINUTES OF PLANNING & ZONING COMMISSION  
JUNE 15, 2006  
BUFFALO COUNTY HIGHWAY DEPARTMENT  
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:07 o'clock P.M. with a quorum present on June 15, 2006 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 and Loye Wolfe. Absent: Craig Wietjes and Paul Steinbrink, Sr. Also attending were Deputy County Attorney Andrew Hoffmeister and Zoning Administrator LeAnn Klein and nine members of the public.

The public forum was opened at 7:07 P.M. Jane Gangwish addressed the Commission and appreciates the amount of time the Commission spends at meetings. She asked if a brief paragraph could be included with the letters that go to adjoining property owners when hearings are held for special use permits so they have an idea of what is planned. After discussion it was agreed that a copy of the special use permit might be mailed along with the letter. Pope stressed that the special use permits are not always allowed as presented and are changed by the Commission or County Board. The public forum closed at 7:11 P.M.

Chairperson Pope opened the public hearing at 7:11 P.M for a special use permit for Miles Maddux and Dustan Biegler on behalf of Versatile Roofing for property located in part of Government Lot 1, located in Section 30, Township 9 North, Range 14 West, Buffalo County Nebraska, containing approximately 3.05 acres more or less. This was continued from the May 18, 2006 meeting.

Mr. Maddux explained to the Commission what he would like to propose for this business. He would have directional lighting on the south and east side of the building. The fence would be 8' with 2' of barbed wire as shown on the attached drawing. The setback for the fence would be approximately 100' from the south property line as shown on the attached drawing. The parking lot will not be paved. The building would be a 100' x 250' with a 20-30' setback from the property line to the north. All supplies would be stored inside of the building. The building would have 14' side walls and the docks would be on the east and possibly a drive thru on the south side of the building.

Hoffmeister asked if a small utility shed would be needed. Maddux explained they would like to use shipping containers to set outside. All paint would be in the original containers. The following items would be stored outside:

1. Shipping containers
2. Personal boat and camper
3. Garbage container

Klein said she had a call from someone asking if hot asphalt mix would be mixed on site and Maddux responded no asphalt mix would be mixed on site.

Wolfe asked if the Commission should clarify the items that the special use permit is for.

Jane Gangwish asked the need for the fence. Maddux responded this is for security purposes. Maddux also replied he had visited with Rod Gangwish on other issues such as lighting. The lighting should not be a factor for the Gangwish's since the lighting on the building would be pointing downwards and would be on the east and south sides of the building. Gangwish responded she feels this business would be a nice fit.

Pope closed the hearing at 7:35 P.M.

Heiden is concerned about the metal containers. Maddux explained these are not permanent but would be moved to job sites as needed.

Wolfe appreciates the conversations with the neighbors to make it a good fit.

Moved by Skov, seconded by Heiden to recommend approval for this special use permit filed by Miles Maddux and Dustan Biegler (Versatile Roofing) and forward to the County Board on the following described legal description: a tract of land being part of Government Lot One located in Section Thirty (30), Township Nine (9) North, Range Fourteen (14) West of the Sixth Principal Meridian, 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 said Government Lot 1 as bearing S 00° 09' 34" W and all bearings contained herein are relative thereto; thence 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 389.34 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 356.34 feet; thence N 00° 09' 34" E and parallel with the West line of said Government Lot 1, a distance of 372.85 feet to a point on the North line of said Government Lot 1; thence N 89° 29' 20" W and on the North line of said Government Lot 1, a distance of 356.34 feet; thence S 00° 09' 34" W and parallel with the West line of said Government Lot 1, a distance of 372.85 feet to the place of beginning. Containing 3.05 acres, more or less with the following conditions:

1. Office and warehouse building no bigger than 100' x 250' with 14' side walls at least 20-30 feet from north boundary line.
2. Lighting on east and south side of building facing downwards.
3. Operable equipment of premise owned trucks, trailers and recreational vehicles may be parked outside of building in fenced area (s).
4. Trees on north boundary line outside of fenced area with setback of fence.
5. 8' fence as shown on attached drawing.
6. Crushed rock or higher grade of construction material on drive way.
7. No hazardous materials unless stored in original containers.
8. Loading facilities on east side of building.
9. No more than three shipping containers to be stored on property.
10. All supplies and materials stored inside building.
11. Refuse dumpster container stored outside of building.

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

Klein said the application will be heard before the County Board on July 11 and notices again will be sent to adjacent property owners.

Chairperson Pope opened the public hearing at 7:38 P.M. for a special use permit submitted by Dawson Public Power District for a tract of land in the Southeast Quarter of the Southeast Quarter of Section One (1), Township Twelve (12) North, Range Sixteen (16) West of the 6<sup>th</sup> P.M., Buffalo County Nebraska containing 2.00 acres more or less. Rob Ecklund, an engineer from Dawson Public Power District, was present.

Hoffmeister questioned where this property was located.

Ecklund responded this property is located 1 mile east of Highway 10 and 1 mile south of the Sherman-Buffalo County line.

Hoffmeister thanked him for submitting an application for this request unlike some public utility companies who do not. Hoffmeister informed the Commission this would be a “use by right” in the agricultural district but since it is below the required 3 acre minimum that is the reason this is being heard.

Ecklund told the Commission the need for a new substation site. This area will be completely fenced in and he also stated he has worked with the Buffalo County Highway Department to improve the sight of this intersection.

Klein told the Commission that footings have already been poured and the setbacks are okay.

There was no one present in opposition. Randy Reese does own a pasture in this vicinity and commented the area does look nice.

Chairperson Pope closed the hearing at 7:42 P.M.

Moved by Wolfe, seconded by Covalt to forward this special use permit application to the County Board with approval for this substation as submitted for a tract of land in the Southeast Quarter of the Southeast Quarter of Section One (1), Township Twelve (12) North, Range Sixteen (16) West of the 6<sup>th</sup> P.M., Buffalo County Nebraska, and being more particularly described as follows: Beginning at the Southeast corner of Section One (1), Township Twelve (12) North, Range Sixteen (16) West of the 6<sup>th</sup> P.M., Buffalo County, Nebraska; thence West (an assumed bearing), and along the South line of the Southeast Quarter of said Section 1, a distance of 295.16 feet; thence N 1° 36' 13" W, and parallel to the East line of the Southeast Quarter of said Section 1, a distance of 295.16 feet; thence East, and parallel to the South line of the Southeast Quarter of said Section 1, a distance of 295.16 feet to a point on the East line of the Southeast Quarter of said Section 1; Thence S 1° 36' 13" E, and along the East line of the Southeast Quarter of said Section 1, a distance of 295.16 feet to the place of beginning, and containing 2.00 acres, more or less, which includes 0.42 acres, more or less of County Road

Right-of-Way. Voting yes were Wolfe, Covalt, Biehl, Heiden, Keep, Pope and Skov. Voting no: none. Absent: Steinbrink and Wietjes. Motion carried.

Klein noted this also would be heard before the County Board on July 11.

Chairperson Pope opened the next hearing at 7:45 P.M. This is for a zoning map amendment filed by John A. Rasmussen for his property located on part of the East half of the Southeast Quarter of Section Ten (10), Township Twelve (12) North, Range Fourteen (14) West of the 6<sup>th</sup> p.m., containing 75.26 acres of land more or less. He is asking this be rezoned from Industrial (I) to Agricultural Residential (AGR).

John Rasmussen noted that it came as a surprise that this was zoned industrial in the first place. He was never notified that his property was zoned industrial. He raised his family of six in a 12' x 60' trailer at this site and finds it ironic that he was never notified. He would like to put mobile homes to house workers that are employed at the ethanol plant which is located across the road to the east. He had hopes of building a residence for himself someday but does not want to since it would now be across the road from an ethanol plant. He had a contractor from the ethanol plant approach him to see about putting in mobile homes. They have already cleaned out some of this property. There are currently 2 mobile homes located at this site. It has a case well and well field. This lot measures out about 600' x 500' for expansion in the future and is located in the northeast corner of his property. He had originally contacted the City of Ravenna and a hearing had been set on May 31 by the City of Ravenna. Later they became aware this was in the County's jurisdiction. He hopes to put 10-20 trailers at this location. There is a definite need for a mobile home park in the Ravenna area.

Heiden questioned the well and septic and informed him this is regulated by the State of Nebraska.

Hoffmeister explained that the County Board had rezoned this to industrial before zoning had been implemented. All the proper notices had been published.

Klein commented that the County Board had rezoned this area to industrial which included all lands situated south of centerline of railroad right of way in Section 10 and 11, Township 12 North, Range 14 West of the 6<sup>th</sup> p.m.

Susan Steele, City Administrator from the City of Ravenna, was present and the area around this area is agricultural. Skov asked if this was in the one mile jurisdiction. Because of the annexation of the ethanol plant, this area annexed by the City of Ravenna was non-contiguous. Hoffmeister explained the jurisdiction of the one mile when an area is non-contiguous.

Steele did state the City had set a hearing date for this before their Planning & Zoning Commission and then it was determined this was in the jurisdiction of Buffalo County.

Skov asked Steele if she sees this as an agricultural area or industrial area. Currently the City of Ravenna has the adjoining areas zoned as agricultural. Skov stated he doesn't want to rezone an area that would be in conflict with the City of Ravenna.

Hoffmeister asked her if additional housing was needed and if she saw this as an industrial area or residential area. Steele noted she can see the need for additional housing in the Ravenna area. They are hesitant to put mobile homes in the City and this would be a better place to place mobile homes.

Skov commented he hopes it won't be a problem for the City in the future.

Pope has concerns about placing an AGR area next to an industrial area. Other areas of concern are the truck traffic.

Steele said they are anticipating about 200 trucks per day.

Wolfe commented people will decide if they want to live in an area directly next to the ethanol plant.

Keep asked how the other areas are currently zoned.

The area to the east is zoned industrial, north, south and west is zoned agricultural except those areas zoned industrial by Buffalo County Board in Sections 10 & 11.

Biehl questioned what Rasmussen wants this area to be rezoned. He replied he would like to rezone the entire 75.26 acres to Agricultural Residential.

Skov also asked in five years if this area would be within the City's jurisdiction which Steele responded she didn't know.

Heiden questioned if any of Rasmussen's land is in the floodplain which Klein responded it is not.

Pope asked if there was anyone in the audience opposed to this. There was no one present in opposition.

Pope closed the hearing at 8:25 P.M.

Hoffmeister stated the road adjacent to this property is a hard-surfaced road.

Rasmussen stated the County Board didn't consider them when they changed this area to industrial. Klein asked when they moved to town and Rasmussen said it was some time ago. She noted the County Board changed this in May of 2002 and no one was currently living at this location at that time.

Biehl questioned how close the nearest residence was. The Commission thought the nearest residence was ¼ mile.

Hoffmeister asked the Commission if everything could be zoned agricultural except the 600' x 500' piece that would be zoned agricultural-residential.

Covalt agreed this mobile home park would be in close proximity to the ethanol plant for the workers.

Hoffmeister questioned what other area could be next to an industrial area. There are mobile home parks in Kearney adjacent to the railroad and industrial areas. Some type of buffer is needed.

Wolfe commented there were no letters of opposition or any public present for this hearing. It would have been interesting to get input from adjacent land owners.

Hoffmeister also reiterated that changing the majority of Rasmussen's property to agricultural would be consistent with the City of Ravenna's zoning.

Steele stated the City of Ravenna was just going to issue a special use permit for 18 months to allow these mobile homes on a temporary basis.

Rasmussen replied he wouldn't be putting in this much money for only a temporary mobile home park.

Moved by Skov, seconded by Covalt to recommend zoning map amendment for the property described as 75.26 acres more or less be changed from industrial to agricultural except the piece approximately 600' x 500' which would be changed from industrial to agricultural-residential and forward this to the County Board for the property described as follows: that portion of the East Half of the Southeast Quarter of Section Ten (10), Township Twelve (12) North, Range Fourteen (14) west of the 6<sup>th</sup> P.M. lying south of a line parallel with and fifty (50) feet distance southerly from the center line of the main tract of the Pleasanton Branch of the Union Pacific Railroad (now abandoned) and to include any portion of said Union Pacific Railroad that has or may revert to adjacent land owner by virtue of the abandonment of said Pleasanton Branch of said Union Pacific Railroad containing 75.26 acre of land more or less as filed in Deed Book 206, Page 583 in the Buffalo County Register of Deeds office on June 4, 1971. This is subject to a survey to be done by any licensed surveyor prior to the County Board meeting on July 11. Voting yes were Skov, Covalt, Biehl, Heiden, Keep, Pope and Wolfe. Voting no: none. Absent: Steinbrink and Wietjes. Motion passed.

Hoffmeister referred the Commission to the rezoning requirements according to Section 11.3 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 (1/2) 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 south to be re-zoned. (Resolution 9/14/04)

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.

Chairperson Pope opened the public hearing for a special use permit for John A. Rasmussen at 8:40 P.M. This is for property described as part of the East half of the Southeast Quarter of Section Ten (10), Township Twelve (12) North, Range Fourteen (14) West of the 6<sup>th</sup> p.m., Buffalo County Nebraska.

This is for a parcel approximately 600' x 500' for a mobile home park. A survey will be needed for the exact piece of land before the County Board hearing.

Rasmussen explained the layout of this mobile home park to the Commission. He stated the following:

1. This area will be a nice location for mobile homes with restrictions.
2. It will be an avenue for people to get on their feet.
3. He will have a tornado shelter.
4. There will be lighting, 1 pole for every 2-3 trailers.
5. Most of the truck traffic will be on the south end since the driveway for the ethanol plant is about ¼ mile south of the entrance for the mobile home court.

Heiden questioned the placement of the well and septic and reminded him he would have to meet State DEQ guidelines. He also questioned the amount of water available in the event of a fire.

The Commission advised him to get additional information for placement of trailers and what is required for septic and well requirements.

Hoffmeister questioned why he had put “temporary” housing on the original application.

Rasmussen said he does want a permanent mobile home park. He does not want to put money in a special use permit that is only temporary.

Klein informed the Commission that one of the mobile homes that have been placed at this location is not within the guidelines of our setback requirements. Two cement pads have already been poured. The setbacks need to be at least 50' from edge of the right-of-way. Klein also asked Rasmussen if someone was living in the mobile home directly adjacent to the road.

The Commission does have concerns with the safety issues and if the septic and well meet State requirements.

Biehl questioned if it was the Commission's responsibility to see that the mobile home park meets the required State's requirements.

Pope closed the public hearing at 9:14 P.M.

Motion was made by Biehl, seconded by Keep to recommend approval and forward this special use permit to the County Board for a parcel approximately 600' x 500' of that portion of the East Half of the Southeast Quarter of Section Ten (10), Township Twelve (12) North, Range Fourteen (14) west of the 6<sup>th</sup> P.M. lying south of a line parallel with and fifty (50) feet distance southerly from the center line of the main tract of the Pleasanton Branch of the Union Pacific Railroad (now abandoned) and to include any portion of said Union Pacific Railroad that has or may revert to adjacent land owner by virtue of the abandonment of said Pleasanton Branch of said Union Pacific Railroad with the following conditions:

1. Limit of 10 mobile home trailer units.
2. This will be subject to all State regulations.

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

This area is to be surveyed prior to the County Board meeting.

Chairperson Pope opened the public hearing at 9:17 P.M. for consideration of general amendments to amend Section 5.57 and 5.59 previously adopted. This was referred back to the Commission from the County Board at their May 9, 2006 meeting.

The Commission discussed certain language for the public use exception.

The public hearing closed at 9:25 P.M.

Moved by Wolfe, seconded by Covalt that the Buffalo County Zoning Regulations 5.57 and 5.59 as previously adopted be amended to read as follows and send a favorable recommendation to the Buffalo County Board of Supervisors for a public hearing.

Amend Sections 5.57, and 5.59 to read as follows:

5.57 HEIGHT AND AREAS REGULATIONS: The maximum height, maximum lot coverage, and minimum area regulations shall be as follows:

1. General Requirements:

	<u>Lot Area***</u> (Sq. Ft.)	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front Yard</u>	<u>Required</u> <u>Side Yard</u>	<u>Required</u> <u>Rear Yard</u>	<u>Height</u>
Permitted Uses	40,000	150'	Greater of 50'* or 83'**	15' or 50' * when abutting a road	20' or 50' * when abutting a Road	none

\* Measured from the abutting road right-of-way line.

\*\* Measured from center line of abutting road right-of-way

\*\*\* Unless more regulated by state or federal authorities. Such minimum lot size is subject to restrictions imposed by Department of Environmental Quality or other agencies with 3 acres being exempt at time of adoption of these regulations (Resolution 10-10-03)

2. MAXIMUM LOT COVERAGE: In no event shall the area of a lot covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features exceed 55% of the lot area. (Resolution 10-10-03, Sec. 5.59)

3. PUBLIC USE EXCEPTION: By special permit this lot size may be reduced for Public Uses including, but not limited to; fire stations, elementary and high schools, utilities, whether publicly or privately owned, and utility distribution systems.

~~5.59 MAXIMUM LOT COVERAGE: In no event shall the area of a lot covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features exceed 55% of the lot area.~~ (Resolution 10-10-03)

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

Klein noted she had noticed a correction on the May 18, 2006 minutes on the first paragraph of page 5 in that Keeps name was listed twice on that motion.

Old Business: Moved by Biehl, seconded by Heiden to approve the minutes of the May 18, 2006 meeting as corrected. Voting yes were Biehl, Heiden, Covalt, Keep, Pope, Skov and Wolfe. Voting no: none. Absent: Steinbrink and Wietjes. Motion passed.

The next meeting of the Planning & Zoning Commission will be July 20, 2006 at 7:00 P.M. at the Highway Department.

Motion was made to adjourn at 9:35 P.M.