

MINUTES OF PLANNING & ZONING COMMISSION
SEPTEMBER 21, 2006
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 September 21, 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 "Bus" Biehl, Karin Covalt, Marlin Heiden, Willie Keep, Rick Pope, Paul Steinbrink, Sr. and Loye Wolfe. Absent: Leonard Skov and Craig Wietjes. Also attending were Deputy County Attorney Andrew Hoffmeister, Deputy County Attorney Melodie Bellamy, Zoning Administrator LeAnn Klein and eighteen members of the public.

The public forum was opened at 7:00 P.M. There was no one present to speak. The public forum closed at 7:00 P.M.

Chairperson Pope opened the public hearing at 7:01 P.M for a special use permit for Dean Clark for property being part of the East Half of the Northwest Quarter of Section 5, Township 9 North, Range 13 West of the 6th p.m., Buffalo County Nebraska.

Dean Clark was present and told the Commission he would like to store up to eight RV's or boats in an existing building. He does live at this site and activity would be mainly in the summer months.

Zoning Administrator Klein stated this property is located in the agricultural zoning and would be allowed under Section 5.14 #14 with a special use permit.

Hoffmeister asked if the approach is graveled and also asked about a 911 address. He asked if everything would be stored inside the building and also if there would be an office inside the building. Clark stated the approach is graveled, everything would be stored inside and there would be an office in the building.

There was no one either in favor or opposed present.

Pope closed the hearing at 7:07 P.M.

Hoffmeister reminded everyone that the County Board is free to add conditions in the hearing that will be held on October 10, 2006.

Moved by Biehl, seconded by Heiden to recommend forwarding this special use permit filed by Dean Clark with the recommendation of approval to the County Board on the following described legal description: A tract of land being part of the East Half of the Northwest Quarter of Section 5, Township 9 North, Range 13 West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast corner of the East Half of the Northwest Quarter and assuming the North line of the East Half of the Northwest

Quarter as bearing WEST and all bearings contained herein are relative thereto; thence WEST on the aforesaid North line a distance of 354.1 feet to the ACTUAL PLACE OF BEGINNING; thence continuing West on the aforesaid North line a distance of 30.0 feet; thence S 00° 04' 31"E and parallel with the East line of said Northwest Quarter a distance of 833.0 feet; thence S 83° 49' 10" W a distance of 390.74 feet; thence S 07° 28' 18" W a distance of 175.37 feet; thence S 46° 55' 35" E a distance of 517.32 feet; thence S 00° 04' 31" E and parallel to the East line of said Northwest Quarter a distance of 35.0 feet; thence East and parallel to the North line of said Northwest Quarter a distance of 418.23 feet to a point on the East line of said Northwest Quarter; thence N 00° 04' 31" W and on the aforesaid East line a distance of 604.25 feet; thence West and parallel to the North line of said Northwest Quarter a distance of 354.1 feet; thence N 00° 04' 31" W and parallel to the East line of said Northwest Quarter a distance of 833.0 feet to the place of beginning. Voting yes were Biehl, Heiden, Covalt, Keep, Pope, Steinbrink and Wolfe. Voting no: none. Absent: Skov and Wietjes. Motion passed.

Klein said the application will be heard before the County Board on October 10 and notices again will be sent to adjacent property owners.

Chairperson Pope opened the next public hearing at 7:10 P.M for a special use permit for Paul and Joyce Sears for property being the Northwest Quarter of Section 6, Township 12 North, Range 13 West of the 6th p.m., Buffalo County, Nebraska for a tasting room.

Joyce Sears was present and explained they grow raspberries, strawberries, grapes and other kinds of fruits. They want to have a tasting room for wine, pies, jams and jellies. They also want to have classes in the future for educating in growing of grapes etc. They also are in the process of widening their driveway and adding gravel for better access to their property. They are about ¼ mile off 375th Road.

Hoffmeister asked if there would be a sign with the street address in front of their property. He also asked if they would be serving meals in their commercial kitchen. She plans on having events catered in the future. The commercial kitchen is for the preparation of jellies, jams and pies. They also will have a gift store which will feature Nebraska gifts. They will place a 4' x 5' sign at their entrance of their property. He also asked about the number of people they could accommodate. Sears said it probably will not be for over 20 people. He also asked how far it was from a hard-surfaced road. Sears replied it was about 2 ½ miles from Highway 2. They simply grow the grapes and will not bottle the wine. They have family members that do help them and also a couple of extra people to help in the harvesting of the crops. Hoffmeister also asked if they would be open year around. Sears replied they probably would be closed a couple of months during the winter months. He also asked the distance from the closest neighbor. The closest neighbor would be ½ mile-1 mile distant.

Heiden asked if they had started the addition. Sears said the addition is just about done. He also asked about the future use of this building and expansion. At this point Sears cannot say, but they might use part of this building as living quarters for an intern or for a storage area.

Klein noted that they had applied for a zoning permit for the addition September 26, 2005 for storage. Later they decided the addition would be used for a wine tasting room and this is the

reason they now are applying for a special use permit. Klein noted the County Board had approved a liquor license for their vineyard at their August 8, 2006 meeting.

No one was in attendance either opposed or in favor of this application.

Klein also noted that notices were sent to adjoining land owners including owners in Sherman County.

Pope closed the hearing at 7:22 P.M.

Wolfe also asked about the condition of the County road.

Moved by Biehl, seconded by Steinbrink to forward this application to the County Board with recommendation this special use permit be approved for a tasting room which would include wine, jellies, jams and pies for property described as the Northwest Quarter of Section 6, Township 12 North, Range 13 West of the 6th P.M., Buffalo County, Nebraska. Voting yes were Biehl, Steinbrink, Covalt, Heiden, Keep, Pope and Wolfe. Voting no: none. Absent: Skov and Wietjes. Motion passed.

Klein said the application will be heard before the County Board on October 10 and notices again will be sent to adjacent property owners.

Chairperson Pope opened the public hearing at 7:25 P.M. for a request of zoning map amendment filed by Roger and Linda Dennis for property described as part of the Northeast Quarter of Section 5, Township 8 North, Range 18 West of the 6th P.M., Buffalo County, Nebraska containing approximately 5.00 acres, more or less. They wish to rezone this area from Agricultural-Residential to Commercial for a truck trailer repair shop.

Klein explained this area is currently zoned Agricultural-Residential, not Agricultural as stated on the notices. Originally this was zoned AGR ½ mile either side of Highway #183 between I-80 and north to the Village of Elm Creek's jurisdiction.

Roger and Linda Dennis were present to explain they would like to put a business at this location to work on semi trailers repair, which would be the primary use. The metal building would be approximately 100' x 182' with 16' walls, four bays with four doors on each side. There also will be an office on the south end of the structure. There will be a sign on the building or off Highway #183.

Hoffmeister asked if this property abuts Highway 183 and what the zoning is for the surrounding properties. Dennis replied this property is on the west side of Highway #183. The area to the south sells vet supplies; the other business is a tire shop which sells tractor, truck and car tires; to the east is a campground and residence; to the north a hay field.

Wolfe asked about the placement of the driveway which Dennis replied would be to the south end of the property.

Klein reminded Dennis he would need approval from the Nebraska Department of Roads for the driveway permit.

Biehl asked what type of work would be done. Dennis replied there would be no major engine repair done on site, just repair of semi trailers.

Pope asked how many trailers would be worked on at one time. Dennis replied about 10-20 which would be stored outside of building.

Heiden asked if there would be a residence at this site and if they would have a septic system. Dennis said there would not be a residence and he had already talked to DEQ regarding septic issues. Heiden also asked if this area is located in a floodplain which Klein replied no. Heiden also questioned placement of shrubs or trees and what type of lighting he would have. Dennis replied they probably would have direct lighting on the building. Heiden also asked how far the building would be from the highway. He replied about 100'.

Keep asked if the trailers would be cleaned on site, the hours of operation and fencing. Dennis said no trailers would be cleaned on site, hours would be between 7:00 A.M. and 6:00 P.M. except in case of emergencies and they probably would have chain link fencing.

Heiden also asked what type of tanks would be used to hold excess oil or Freon. Dennis stated he would be in compliance with DEQ requirements and would not service air conditioning units on site.

Hoffmeister reminded the Commission the question before them is if this should be rezoned to Commercial and any use that is allowed in the zoning regulations would be allowed.

The following people were in opposition to the rezoning.

Dave Fear, a resident about 200 yards northwest of proposed site, owns a taxidermy business the last 12 years at his residence. He expressed the following concerns:

1. The odor of trailers and how it would affect his business
2. Disposal of oil and other solvents
3. How this will all fit on a five acre piece of property
4. Concerns about the appearance of this building because of the trailer wash that Mr. Dennis owns east of this area
5. Has only known about this hearing for a week, haven't had time to talk to the neighbors
6. Would like this postponed because a lot of questions have not been answered
7. Not compatible with the existing businesses
8. He already notices the odor from trailers that are parked at Bosselmann's south of this area
9. Many residences are located at this location

Fear presented pictures to the Commission showing the condition of Dennis's other property.

Pope asked how many customers he has per day. Fear replied he probably has 1-2 per day with the exception of November when he does have more activity.

Linda Dennis questioned if Fear's business is not a commercial business.

Jim Hahn presented pictures to the Commission. He has the following concerns:

1. His property is located about 188 yards northwest of the proposed zoning request
2. His main concern is the lowering of his property values and is opposed to the rezoning
3. Safety is also a big concern
4. Is the area large enough to accommodate this business

Terri Meier also was present to voice her concerns. She also is speaking on behalf of her Mother who owns adjacent property. She feels this rezoning would de-value their property.

Dennis Keim is opposed to the rezoning. He can't see the proposed site from his property but wonders if this would become an eyesore.

Ryan Knapp owns the home south of the campgrounds on the east side of Highway #183. His main concern is the traffic, environment, and property values.

Pope asked about the campgrounds. Knapp stated this campground is owned by his father-in-law. He feels this would also impact the campground. The average number of campers is about 30 per night with full capacity being 45 campers.

Hoffmeister questioned where the motel was located. Knapp replied it is located about ¼ mile south of the proposed site.

Bill Storrs owns a business 3/8 mile south of this area. He runs a commercial business and is not a resident in this area. He questioned the condition of Mr. Dennis's other property and asked what condition this business would be.

Frank Meier has concerns and if there wouldn't be a better area for this business. The smell of livestock trailers will not help anybody's property values.

Wayne Zimmerman, who lives north of this area, is concerned if his taxes will go up.

Attorney Dan Lindstrom was present on behalf of some clients who already had spoken in opposition. Once this property is rezoned, it is commercial. Is this appropriate to do that? They can operate within code in an AGR area. The County originally zoned this AGR. He asked this request be denied.

Mr. Fear questioned if they could have a 10' solid fence with 20' of green space with 6' tall trees no more than 15' apart around this proposed zoning.

Mr. Dennis responded to the condition of his other property. He purchased that property three years ago and they are in the process of working with the Department of Environment Quality in resolving some of these issues. They also contact a rendering company to pick up the carcass of dead animals.

Pope closed the hearing at 8:10 P.M.

Biehl reiterated that Buffalo County cannot operate without trucks. We do need to put commercial areas along highways.

Keep has mixed feelings because he is from this area and knows some of the people in opposition. We already have a number of properties that are already zoned commercial in this vicinity.

Heiden said this already abuts commercial property. He feels the rezoning would increase the value of other properties in this area.

Klein stated there are presently six properties along Highway #183 the County Board originally zoned commercial on January 1, 2003.

Wolfe agreed this is an area that needs this type of business.

Pope also agreed this is a commercial area but the homes already exist and this is not an easy decision for the Commission.

Pope referred to Section 5.52 of the zoning regulations. After looking at the "use by right" that is allowed in commercial, he believes this would fit in this area.

Klein told the Commission that notices were mailed on September 8 and all property owners within the required distance were given the required 10 day notice.

Hoffmeister referred to the following section:

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 sought 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.

Biehl stated we still need to go by the rules.

Wolfe added we still need to be a good neighbor.

Covalt does have some issues with the trailer wash that Dennis also owns.

Pope questioned if odor is a big problem in this situation. Trailers would not be as big a problem as a livestock facility.

Heiden feels prevailing winds do have an effect. This is a farming community and this is life in Nebraska. We can't predict the future.

Hoffmeister referred to Section 5.34 which allows certain business by special use permit that are allowed in AGR.

Motion was made by Covalt, seconded by Keep to recommend this request for zoning amendment from Agricultural-Residential to Commercial be denied for property described as a five acre tract in part of the Northeast Quarter of Section 5, Township 8 North, Range 18 West of the 6th P.M., Buffalo County, Nebraska. Voting yes were Covalt and Keep. Voting no were Biehl, Heiden, Pope, Steinbrink and Wolfe. Absent: Skov and Wietjes. Motion failed.

Motion was made by Wolfe, seconded by Biehl to recommend an amendment of zoning map from Agricultural-Residential to Commercial and forward to the County Board with a favorable recommendation for property described as a five acre tract in part of the Northeast Quarter of Section 5, Township 8 North, Range 18 West of the 6th P.M., Buffalo County, Nebraska with the following conditions:

1. 6 trees or evergreens, no less than 15' apart or closer than 6
2. Trees shall be placed 20' back from property line on north and west boundary line

Voting yes were Wolfe, Biehl, Heiden, Pope, and Steinbrink. Voting no: Covalt and Keep. Absent: Skov and Wietjes. Motion passed.

Klein said notices will again be sent out to adjacent land owners 10 days before the October 10, 2006 County Board meeting.

Old Business: Moved by Biehl, seconded by Heiden to approve the minutes of the August 17, 2006 meeting as mailed. Voting yes were Biehl, Heiden, Covalt, Keep, Pope, Steinbrink and Wolfe. Voting no: none. Absent: Skov and Wietjes. Motion passed.

Klein reported on the approval of Harvest Moon application by the County Board.

Klein discussed other areas of concern.

The next meeting of the Planning & Zoning Commission will be October 19, 2006 at 7:00 P.M. at the Highway Department.

Motion was made by Heiden, seconded by Biehl to adjourn at 8:55 P.M.