

MINUTES OF PLANNING & ZONING COMMISSION  
FEBRUARY 15, 2007  
BUFFALO COUNTY HIGHWAY DEPARTMENT  
7:00 P.M.

Zoning Administrator LeAnn Klein opened the meeting at 7:05 P.M. at the Buffalo County Highway Department Building in Kearney, NE. Klein announced there was a copy of the open meetings act posted on the bulletin board. Klein asked for nominations for Chairperson. Moved by Wolfe, seconded by Steinbrink to nominate Rick Pope as Chairperson. Voting yes were Wolfe, Steinbrink, Biehl and Keep. Abstain: Pope. Absent: Covalt, Heiden, Skov and Wietjes. Motion passed.

Klein asked for nominations for Vice-Chairperson. Moved by Wolfe, seconded by Steinbrink to nominate Buss Biehl for Vice-Chairperson. Voting yes were Wolfe, Steinbrink, Keep and Pope. Abstain: Biehl. Absent: Covalt, Heiden, Skov and Wietjes. Motion passed.

Klein asked for nominations for Secretary. Moved by Wolfe, seconded by Biehl to nominate Willy Keep as Secretary. Voting yes: Wolfe, Biehl, Pope and Steinbrink. Abstain: Keep. Absent: Covalt, Heiden, Skov and Wietjes. Motion passed. Klein then turned the meeting over to Chairperson Pope.

Chairperson Rick Pope called the meeting to order with a quorum present on February 15, 2007.

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

The public forum was opened at 7:09 P.M. No one was present to address the Commission. The public forum closed at 7:09 P.M.

Chairperson Pope opened the public hearing at 7:10 P.M for a special use permit for Mark H. Meyer, M.D. for property described as part of the East Half of the Southwest Quarter (E ½ SW 1/4) of Section Eight (8), Township Nine (9) North, Range Sixteen (16) West of the 6<sup>th</sup> p.m., containing 3.02 acres, more or less, Buffalo County Nebraska for an additional hangar.

Trenton Snow was present on behalf of Mr. Meyer and told the Commission Meyer would like to build an additional hangar to house a maximum of two additional planes in an 80' x 110' building and would be located north of the existing hangar. The purpose to have an additional hangar would be for cost effectiveness. There is an existing runway that was built in 1991.

Jayne Meyer was also present and noted this runway is not instrument rated but is visual flying only. If weather is bad, they do not use the runway but use the Kearney airport instead. She stated the runway was established in 1991 and was only a grass runway originally.

Andrew Hoffmeister explained the process of the special use permit to the audience according to Section 6.1 and 6.2 of the Buffalo County Zoning Regulations. The Planning and Zoning Commission makes the recommendation to the County Board and the County Board will make the final decision when it is heard before them. He also explained the protest process to the audience members.

Klein noted she did have a letter in opposition to read into the minutes.

Hoffmeister stated persons protesting this application need to appear in person before this Commission to give all parties involved the chance to ask questions.

Wolfe asked if there was fuel stored in buildings. Jayne Meyer replied there is low lead fuel stored, not jet fuel, which is less volatile.

Biehl asked how often Meyer flies. Mrs. Meyer stated he averages 4-6 times per month, weather permitting. She said Meyer does have his instrument rating. She said that presently no more than two aircraft use the airstrip.

Keep questioned if they are intending to sell a three acre parcel. Mrs. Meyer replied this three acre parcel would be owned by another party. Keep also questioned how far this was from a county road. She said the end of the runway is approximately ¼ mile north of 85<sup>th</sup> Road and the three acre parcel is in the middle of their farm.

Pope asked if there would be an additional house at this site and Mrs. Meyer told him not at this time.

There was no one present in opposition. Pope closed the hearing at 7:25 P.M.

Pope read a letter of opposition from Ryan Page, who lives to the south of the property on 85<sup>th</sup> Road. He has lived at this location for nine years. The runway was existing at the time he built his house and is about ¼ mile from the runway.

Moved by Biehl, seconded by Steinbrink to recommend to forward to the County Board with approval for a special use permit for Mark H. Meyer on the following described legal description: a tract of land being part of the East Half of the Southwest Quarter (E ½ SW ¼) of Section Eight (8), Township Nine (9) North, Range Sixteen (16) West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of the East Half of the Southwest Quarter of said Section 8 and assuming the West line of said East Half of the Southwest Quarter as bearing S 00° 00' 15" W and all bearings contained herein are relative thereto; thence S 00° 00' 15" W on the aforesaid west line a distance of 1045.42 feet; thence S 89° 59' 45" E a distance of 200.0 feet to the ACTUAL PLACE OF BEGINNING; thence continuing S 89° 59' 45" E a distance of 150.0 feet; thence N 00° 00' 15" E parallel with the aforesaid west line a distance of 300.0 feet; thence S 89° 59' 45" E a distance of 259.02 feet; thence N 00° 04' 51" W a distance of 154.0 feet; thence on a non-tangent 66.0 feet radius curve to the right, concave northeasterly, forming a central angle of 90° 05' 07" a distance of 103.77 feet to a point, said point being N 45° 02' 18" W a chord distance of 93.41 feet from the

previously described point; thence S 89° 59' 45" E a distance of 342.7 feet to a point 200.0 feet easterly of, as measured at right angles to, the aforesaid west line; thence S 00° 00' 15" W parallel with and 200.0 easterly of the aforesaid west line a distance of 520.0 feet to the place of beginning. Containing 3.02 acres, more or less with the following conditions:

1. One additional hangar to house no more than two aircraft
2. Hangar would be an 80' x 110' structure
3. No additional housing.

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

Klein said the application will be heard before the County Board on March 13, 2007 and notices again will be sent to adjacent property owners.

Chairperson Pope opened the next public hearing at 7:45 P.M for a special use permit for Phyllis Broadfoot and Ed Broadfoot & Sons Sand & Gravel for property being part of the Southeast Quarter of Section Nineteen (19), Township Nine (9) North, Range Seventeen (17) West of the 6<sup>th</sup> p.m. and the Southwest Quarter of Section Twenty (20), Township Nine (9) North, Range Seventeen (17) West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska, for mining operations.

Ryan Broadfoot was present and told the Commission he wants to extract clay from a hill for future construction projects. Currently they do not have a construction project but they want to have the permit on file for future projects.

Hoffmeister asked what road would be used to remove the clay and Broadfoot said Daykin Road would be used.

Klein noted Daykin Road is a township road and the area south of Section 20 is a minimum maintenance road and questioned if they would be able to use Daykin Road.

Hoffmeister asked what the weight of the trucks would be. Broadfoot replied the weight would be 45,000-50,000 pounds with dry clay or a maximum would be 94,000 pounds. Hoffmeister also questioned if they would be using end dump trucks or side dumps. Broadfoot currently does not own any side dump trucks.

Pope questioned what clay is used for. Broadfoot replied this is for road projects, railroads and other construction projects.

Hoffmeister questioned other existing quarries. There are currently a couple of quarries in the County.

Keep asked if weather would affect the business. Broadfoot replied weather would be a factor. They would not be able to move clay if the weather is bad. They would never use Dunbar Road.

Wolfe asked what the limit of use would be. Broadfoot replied again it would be for foundation work for building projects, roads or railroads.

Steinbrink asked how many cubic yards of clay there would be. Broadfoot said there are millions of cubic yards at this location.

Keep questioned if the sentiment would wash onto the neighbors property.

Wolfe also asked Broadfoot if they would be okay using the minimum maintenance road. Broadfoot replied he wouldn't have a problem with using Daykin Road.

Charles Ripp is opposed to the mining operation. He owns the residence south of Section 20 off Daykin Road. He just dug out the existing ponds which he uses for his cattle and he feels silt would fill into his ponds. The Elm Creek ditch goes behind the house and there is an old culvert and he feels Daykin Road would not hold up to the truck traffic.

Terry Anderson owns land in the southern part of Section 19 and adjacent to Section 20. His concern is for dust, traffic and noise. He has applied for a zoning permit for a proposed house and would be very close to this mining operation.

Bryan Stauffer questioned if NRD would have restrictions on this type of operation.

Jim Meier owns property to the east of Section 20. He has concerns about mining up to his fence. His property is fenced and he uses this for cattle grazing.

Charles Ripp said he also uses his land for cattle grazing.

Pope questioned if the entire property would be used for mining. Broadfoot does not have an exact legal description for the mining. Broadfoot said he only would use about 30 acres on the hill for the mining.

Gary Nunns, who owns an acreage in Section 19, is also opposed to this operation. His concerns are the dust and noise.

Phyllis Broadfoot stated she is not going to destroy the land. They would not come close to either the Nunns or Meier property.

Terry Anderson said this would be within 1000 feet of his proposed home and he would be able to see the mining operations.

Ron Stauffer is concerned with the safety issue of the trucks on the south intersection of 39<sup>th</sup> Road and Daykin Road.

Russell Horky can understand why they want to use their property but he has concerns of the noise and they don't want this in their backyard. Why can't Broadfoot buy clay from other people who are in that business? He also questioned if they would be re-seeding the area.

Sharon Ripp stated she doesn't want the silt in their existing ponds and has concerns of the safety issue.

Stan Wissel is currently building a new home in Dunbar Subdivision that was previously rezoned in 2003. He is also opposed to this.

Kevin Trampe lives north of this area and is also opposed to this.

Justin Broadfoot replied he is not out to ruin the view for anyone. They will have a water truck to control the dust and will re-claim the land and will re-seed the area after mining. They will not be operating 24 hours per day. Currently they don't even have a project but want to get the necessary permits in case they do have upcoming projects.

Hoffmeister stated this is allowed under the Agricultural zoning but is not allowed in Agricultural-Residential zoning.

Mr. Meier questioned the length of a special use permit.

Pope closed the hearing at 8:12 P.M.

Biehl questioned what rules and regulations pertain to mining operations. Hoffmeister stated he wasn't aware of any.

Broadfoot stated they have to comply with all state regulations.

Wolfe asked Broadfoot to describe the exact process of this mining operation. She asked about the exact number of acres, the average number of cubic yards and what amount of time would be spent on this and when would this area be re-seeded. Broadfoot explained the process and stated this would not be re-seeded until all the clay was taken out.

Keep asked what would the contour of the land be when they are finished mining.

Pope is concerned with the usage of the minimum maintenance road. There are potential problems but there is a need for clay in the County.

Keep stated he thinks there should be conditions listed on the special use permit and Broadfoot needs to contain the sentiment and eliminate any run off.

Moved by Keep, seconded by Biehl to forward this application to the County Board with recommendation this special use permit be approved for mining operations for part of the Southeast Quarter of Section Nineteen (19), Township Nine (9) North, Range Seventeen (17) West of the 6<sup>th</sup> p.m. and the Southwest Quarter of Section Twenty (20), Township Nine (9) North, Range Seventeen (17) West of the 6<sup>th</sup> p.m., Buffalo County Nebraska, with the following conditions:

1. Limit hours of operation to daylight hours.

2. Maintain contour no greater than 12%, no sharp drop offs to neighboring properties.
3. An exact area not to exceed 30 acres and a legal description to be provided to the County Board prior to hearing.
4. Contain erosion and water run-off.
5. Subject to State and Federal Regulations.

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

Klein said the application will be heard before the County Board on March 13 and notices again will be sent to adjacent property owners.

Chairperson Pope opened the public hearing at 8:53 P.M. for a zoning map amendment filed by Phyllis Broadfoot from Agricultural to Agricultural-Residential for part of the East Half of Section Nineteen (19), Township Nine (9) North, Range Seventeen (17) West of the 6<sup>th</sup> p.m., Buffalo County Nebraska.

Ryan Broadfoot and Phyllis Broadfoot were present. They presented the Commission a proposed plat of the area. They would like to have five additional lots directly north of the existing Dunbar Subdivision. They would sell off four lots and retain Lot 1 for well purposes. All of these lots are over the three acre minimum.

Hoffmeister questioned the 10' easement shown between Lots 3 and Lot 4 and also the 10' utility on the front of all of the lots.

Broadfoot said there would be a 10' easement on the front of the lots but the easement between Lot 3 and Lot 4 should not be there.

Klein said the area for Dunbar Subdivision was rezoned in September 2003 and consisted of two lots.

Pope asked what restrictions there were on the previous rezoning. He also asked how far this was from the nearest AGR.

Klein said the only conditions were that there only is one home on each of the two lots in Dunbar Subdivision.

Stan Wissel said they are in the process of building a new home. The reason he had bought this property was because there were no neighbors to the north and they had been told by the real estate agent there would be no future development. He is opposed to this. He has concerns with Dunbar Road because of the traffic and it also is very narrow.

Charles Ripp is also concerned with the traffic and the condition of the road and is opposed to this.

Bryan Stauffer questioned how it will affect traffic. He does not want more people moving into this area. He has had problems with people running down his fences in the past. He doesn't see any benefits to this rezoning. He also questioned how it would affect his property taxes.

Russ Horky bought his property to get away from people. He has horses and has concerns that neighbors' kids will bother his horses.

Don Sullwold, Phyllis Broadfoot's brother, stated the subdivision will be a plus with new homes in this area.

Tisha Stauffer is also opposed to this rezoning. People move out to the country to see wide-open spaces. There are enough new homes in this area.

Sheila Wissel asked about zoning laws and also thought there would not be more building. She is opposed to this. They haven't even moved into their new home yet.

Phyllis Broadfoot asked for a rezoning in 2003 so her sons could each build a home. Her sons later decided they didn't want to build at that location so she then sold both lots in Dunbar Subdivision.

Sharon Ripp is concerned with the busy road.

Ron Stauffer, Bryan Stauffer and Jackie Stauffer are all opposed to the rezoning.

Kevin Trampe and Stan Wissel said they have concerns with rattlesnakes and mining will bring out more.

Broadfoot said there are rattlesnakes in this area and he can't control people driving through other peoples' fences. The traffic is already there and they can't control that.

Phyllis Broadfoot said the land will remain beautiful and there will be cattle in this area. She had not said anything to the real estate agent about not selling off additional lots. At the time she rezoned, she wanted to have her sons be able to built homes there.

Mrs. Wissel asked the Commission to put themselves in this situation and think of this as your own home. We thought the zoning regulations were to protect us.

Klein explained that part of Section 19 were split off and filed in the Register of Deed's office prior to zoning being implemented. The houses for Anderson, Nuns and Horky were allowed since they were grandfathered in.

Horky said a couple of years ago Phyllis said this was it when she asked for the rezoning. How long will this continue?

Phyllis replied they cannot build more homes off the minimum maintenance road and there would be no additional space to build additional homes.

Pope closed the public hearing at 9:30 P.M.

Pope has concerns with mixing an agricultural area with mining. Mining and AGR are not compatible with each other.

Biehl stated they try to keep subdivisions off or close to hard surfaced roads.

Keep reiterated this is a nice area for homes. He has concerns with the number of driveways off Dunbar Road. About the only use for this property is either pasture land or residential homes.

Wolfe questioned if Lot 1 needs to be rezoned if it is for a well.

Moved by Steinbrink, seconded by Wolfe to recommend to deny this application for a zoning map amendment from Agricultural to Agricultural-Residential and forward this to the County Board on the following legal description: a tract of land being part of the East Half (E ½) of Section Nineteen (19), Township Nine (9) North, Range Seventeen (17) West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Northwest corner of the Northeast Quarter of said Section 19 and assuming the west line of said Northeast Quarter as bearing SOUTH and all bearings contained herein are relative thereto; thence SOUTH on said west line a distance of 2310.16 feet to the Northwest corner of Dunbar Road Subdivision, a subdivision being part of the East Half of Section 19, Township 9 North, Range 17 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska, thence S 89° 27' 23" E and on the north line of said Dunbar Road Subdivision a distance of 470.0 feet to the Northeast corner of said Dunbar Road Subdivision; thence NORTH parallel with said west line of the Northeast Quarter of said Section 19 a distance of 2312.87 feet to the north line of said Northeast Quarter; thence N 89° 47' 09" W and on said north line a distance of 469.9 feet to the place of beginning. Containing 24.93 acres, more or less, of which 1.75 acres, more or less, are presently being used for road purposes on the west side due to the following reasons:

1. No paved roads and lack of close proximity to paved roads.
2. Mining will also be in this area to immediate east of proposed development.
3. Too many driveways off Dunbar Road because each lot has an individual driveway to Dunbar Road as indicated in proposed plan of development in the area proposed to be rezoned.
4. Cattle are in this area and increased urban development in the area which this rezoning would cause, are not compatible uses.
5. The applicant's have indicated at the meeting that they desire to retain Lot 1. The Commission fears that such use could be merely access for quarry in area as proposed in prior public meeting or they could come back in the future to ask for additional homes. The Commission notes that some years ago applicant applied to rezone property to the immediate south on the representation that the uses would be for family homes of the applicant, which was not the case nor was applicant necessarily bound by such representations. The Commission in making this comment does not perceive that applicant is necessarily bound by this statements made at this public meeting, but such retained interest in the land could

possibly mean more residential development which this Commission sees as violative of the Comprehensive Plan.

6. That this application if approved will increase public uses in an area where there presently exist inadequate public services including, but not limited to fire protection and safety service and adequate roads.
7. The presently requested and future more intensive development in this area is not consistent with the Comprehensive Plan nor preamble of the Agricultural Residential District.

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

Klein stated this will be heard before the County Board on March 13 and notices will be sent to adjacent property owners.

Old Business: Klein noted a correction of the minutes on page 2, 6<sup>th</sup> paragraph should be Section 5.34 #12. Moved by Keep, seconded by Steinbrink to approve the minutes of the January 18, 2007 as corrected. Voting yes were Keep, Steinbrink, Biehl, Pope and Wolfe. Voting no: none. Absent: Covalt, Heiden, Skov and Wietjes. Motion passed.

Klein told the Commission the outcome of the hearings heard by the County Board at their February 13, 2007 meeting.

Other items of concern were discussed.

The next meeting of the Planning & Zoning Commission will be March 15, 2007 at 7:00 P.M. at the Highway Department.

Motion was made by Biehl, seconded by Keep to adjourn at 9:45 P.M.