

MINUTES OF PLANNING & ZONING COMMISSION  
JULY 19, 2007  
BUFFALO COUNTY EXTENSION CENTER MEETING ROOM  
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:00 o'clock P.M. with a quorum present on July 19, 2007 at the Buffalo County Extension Center meeting room at 1400 E 34<sup>th</sup> St., 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, Paul Steinbrink, Sr., Craig Wietjes and Loye Wolfe. Absent: none. Also attending were Deputy County Attorney Andrew Hoffmeister, Zoning Administrator LeAnn Klein and 36 members of the public.

Chairperson Pope announced there was a copy of the open meetings act posted.

Chairperson Pope announced that the application for "I Believe In Me Ranch" had been withdrawn on July 12, 2007 and would not be heard this evening.

The public forum was opened at 7:01 P.M. There were a number of people present to express their concerns on the future plans of "I Believe In Me Ranch". Deb Maury told the Commission there are too many unanswered questions concerning this facility. The residents have many concerns placing this facility in the middle of a residential area. Susan King, Tom McNeil, Cindy McNeil, Mary Jo Henderson and Gail Lowenberg also spoke to the Commission concerning the withdrawn application. The public forum closed at 7:25 P.M.

Chairperson Pope opened the public hearing at 7:26 P.M for a zoning map amendment for property described as part of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter of Section 36, Township 11 North, Range 16 West of the 6<sup>th</sup> p.m. David Frost was present on behalf of Prairie Hills Golf and Ski Inc. and explained they would like to rezone a five acre piece from Agricultural to Agricultural-Residential for one additional home.

Hoffmeister asked how this property would be accessed. Frost responded there is a private road leading into the golf course and the owner would be given an easement to access their property. Hoffmeister explained Section 11.3 of the zoning regulations.

### **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. (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.

Klein explained this area is all zoned agricultural with the exception of rezoning approved for Tim Weides property in November 2005.

Heiden asked how wide the easement was. Frost thought it was 66 feet. The existing private road would be straightened to Pole Line Road.

Klein thought the majority of the roads in these subdivisions were private access roads. Hoffmeister explained there are some roads that have become public roads.

Skov asked what the long-term plan for the remaining property is. Frost explained they will be coming back to re-zone the entire 55 acre piece but they weren't ready at this time. Frost thought they would be coming back within the next six months for rezoning. Skov questioned if this would be spot zoning?

Hoffmeister read Section 5.32 which states "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".

Biehl asked who maintains the road currently. Currently the golf course maintains this road.

Ercil Phillips, an interest holder of the Prairie Hills Golf Course, is very concerned. There are no restrictive covenants filed against the land and they don't want animals on these lots because it would be a detriment to the golf course. There is a 17 acre piece on the corner of the golf course which now has horses and cattle and is a real mess.

Hoffmeister reminded them they could have up to 300 animal units in AGR as a "use by right" currently.

Larry Johnson told the Commission that when he bought his lot he was told there would be restrictive covenants on properties regarding the number of animals. These restrictive covenants apply to the subdivisions but not to surrounding properties.

Don Peterson wants residential homes but not the animals. Once you allow this to happen, then it is out of your hands. He questioned the hurry to re-zone only five acres.

Kurt VeJohn does rent the golf course and he maintains the existing roads.

Sandy Nicklasson asked if the buyers could tell everyone what they plan to do.

Doug Smith, the proposed buyer, has four children and they would like to raise 4-H animals. They want to raise poultry, sheep, rabbits and calves. He would have the animals on the east part of the property. He said the animals wouldn't even be visible from most of the homes. Most of the time prevailing winds are out of the south and west. He was a golf professional in Arizona and knows a lot about golf courses.

Mary Kulhavy asked how many animals they would be raising. There is also a problem with smell and flies.

Chris Welliver thought they would be able to see this from their property.

Doug Welliver said he had talked to Mr. Smith and hasn't been given a clear answer on the number of animals.

Kurt VeJohn is concerned with the odor and flies.

Doug Peterson questioned what happens when this property is sold?

Cliff Kulhavy hopes to encourage a nice development for a golf community. They don't want any animals. He is opposed to any animals at this location.

Mary Kulhavy said Mr. Weber doesn't even live at this location.

Dave Frost reiterated covenants will be placed on the remainder of this property west of the five acre piece. Mr. Weber is interested in what happens. The original plan was to add another nine holes but that did not occur.

Kurt VeJohn said the road has to be zoned residential for the County to take it over. Hoffmeister explained it needs to be laid out and subdivided.

Chris Welliver assumed Mr. Weber put the covenants on all the properties.

Ken Unick wants a serene area and does not want more animals next to a golf course.

Mr. Smith told the audience he wants to build a nice home and would keep the animals on the east side of his property so people wouldn't be able to see the animals.

Don Peterson doesn't want to see animals when he drives down that road to play golf.

Sandy Nicklasson told the Commission they cannot entice golf tournaments if there are animals at this location.

Dave Frost's intent is keeping the area north and west of the road an upscale area. His client just wants to grow animals for 4-H.

Doug Smith says his dream is just like everyone else.

Chairperson Pope closed the hearing at 8:20 P.M.

Biehl told the audience they don't make covenants. This is out of sequence and they can't rule on gripes. Covenants should have been filed first.

Pope said the owner is not present to express his concerns. It seems the five acre piece would be covered by a separate set of covenants and has concerns on many issues.

Skov says we need to look at conflicting uses. We have a parcel which would be controlled by one set of covenants and the remainder of property would be controlled by another set of rules.

Hoffmeister explained covenants are not enforced by the County and are between the buyer and seller.

Pope told Smith most of the Commission members have been involved in 4-H and are sympathetic to his request.

Covalt asked if Mr. Weber couldn't put animals on the remaining property. Hoffmeister replied they could have up to 300 animal units in AGR. Why are we concerned with the covenants when animals are currently allowed?

Wietjes also has an issue with just rezoning five acres. Is this spot zoning? We don't have any control over covenants.

Biehl asked Frost if it wouldn't be in their best interest to file covenants on the remainder of these lots.

Hoffmeister asked if there aren't quite a few residences already located in this area.

Heiden said there is a lot of gray area.

Pope agreed we are looking at spot zoning and has lots of concerns.

Skov questioned what are we trying to do? This is zoned agricultural. Someone can put cattle on this site as it is currently zoned.

Keep said what the residents are asking us to do, we have no control over. It is a mess. This is part of the country. He is not comfortable with rezoning just this small piece.

Skov asked if this was originally planned as part of the golf course? Frost replied this was suppose to be another 9 holes of the golf course but was never subdivided.

Moved by Biehl, seconded by Wietjes to forward this application to the County Board with a recommendation that this application for a zoning map amendment be denied for property described as a parcel of land in part of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter of Section 36, Township 11 North, Range 16 West of the 6<sup>th</sup> p.m. Voting yes were Biehl, Wietjes, Heiden, Keep, Pope and Skov. Voting no: Covalt, Steinbrink and Wolfe. Absent: none. Motion passed.

Hoffmeister reminded the audience of Section 11.3 “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.”

Klein said the hearing before the County Board will be heard on August 14, 2007 at 11:00 A.M. at the Courthouse. Hearing notices will again be mailed to adjoining property owners.

Chairperson Pope opened the public hearing at 9:00 P.M. for a public hearing to add the following language to the Zoning Regulations to Section 6.4 #7E as follows:

- E. Livestock processing waste shall not be allowed upon the land of Buffalo County.

Re-number 13.2 to 13.3 Purpose of Legal Authority Cited

Hoffmeister explained this had been discussed by the Planning & Zoning Commission previously but it was just a correction to the zoning regulations.

Chairperson Pope closed the public hearing at 9:05 P.M.

Moved by Heiden, seconded by Covalt to add the following to the zoning regulations as previously adopted by Buffalo County for Section 6.4 #7E:

- E. Livestock processing waste shall not be allowed upon the land of Buffalo County.

Re-number 13.2 to 13.3 Purpose of Legal Authority Cited

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

Old Business: Moved by Wietjes, seconded by Wolfe to approve the minutes of the June 21, 2007 with the following typographical corrections:

Hoffmeister told the Commission there was an error in the underlining of a phrase in the previous zoning regulations passed at the May 17 meeting which needed to be addressed later in the meeting.

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

Other areas of concern were also discussed.

The next regular meeting of the Planning & Zoning Commission will be August 16, 2007 at 7:00 P.M.

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