

MINUTES OF PLANNING & ZONING COMMISSION
MARCH 5, 2009
BUFFALO COUNTY HIGHWAY DEPARTMENT
7:00 P.M.

Chairperson Wietjes opened the meeting at 7:00 P.M. at the Buffalo County Highway Department Building in Kearney, NE with a quorum present on March 5, 2009. Present were: Karin Covalt, Ken Erickson, Marlin Heiden, Willie Keep, Leonard Skov, Gwen Stengel, Craig Wietjes and Loye Wolfe. Absent: Paul Steinbrink, Sr. Also attending were Deputy County Attorney Andrew Hoffmeister, Zoning Administrator LeAnn Klein and five members of the public.

Wietjes announced there was a copy of the open meetings act posted on the bulletin board and we do abide by the open meetings act and a copy is posted as required by law.

Agenda for such meeting was regularly posted as required by law and the agenda is available for anyone wanting one.

The public forum was opened at 7:01 P.M. No one was present to address the Commission. The public forum closed at 7:01 P.M.

Chairperson Wietjes opened the public hearing at 7:01 P.M. for amendment of zoning regulations submitted by T & F Sand & Gravel, Inc. to allow sand and gravel extraction and temporary concrete batch and/or asphalt plant in an Agricultural-Residential (AGR) area of Buffalo County. Each item will be discussed separately.

Rick Follmer of T & F Sand & Gravel, Inc. was present and told the Commission the State of Nebraska has awarded the contract to Knife River Midwest, L.L.C for the resurfacing of the west-bound lane of I-80 from Kearney to Odessa. They want to extract gravel to use for this project but gravel extraction currently is not allowed in an AGR zoning area. The first site by the Odessa exit was rejected by the Corps of Engineers but this site does have approval from the Corps of Engineers, marked as Exhibit #1, which he submitted to the Commission. They need to start the job by April 1 of this year.

Hoffmeister asked if they could explain what a portable batch plant is. Robert with Knife River Midwest, L.L.C. explained the process to the Commission. They will mix the concrete at the site, haul rock and sand in and when completed, topsoil will be put back on the land and the land will be seeded back as found. Robert with Knife River told the Commission they would be bringing the raw material from Highway 30 and south on Dove Hill Road. The finished product would go south through the right-of-way on the north side of I-80.

They discussed the concerns as brought forward by the City of Kearney's Planning & Zoning Commission and the conditions placed on them by the City of Kearney.

This site is better because they can haul the product directly to the site location without using public roads. They will use Dove Hill Road south of Highway 30 to haul in concrete and other materials but the finished product will go directly to I-80 using the right-of-way.

Robert with Knife River said he will sign a contract with Buffalo County to use Dove Hill Road and the road will be in the same condition as when they started the project.

There are AGR areas located west of Kearney which does have gravel deposits. The area east of Kearney is located in AG areas which permit gravel extraction with a special use permit.

The Commission also discussed temporary concrete batch and/or asphalt plant (s) that uses movable equipment utilized for area road or localized construction being added to AGR with a special use permit. Should temporary be included in this amendment?

Skov questioned if this would open the door for consideration in AGR areas.

Tim Sorensen was present and he is not opposed to this project.

Chairperson Wietjes closed the public hearing at 7:30 P.M.

Hoffmeister reminded the Commission the amendments would apply to the entire County. They discussed the wording of the proposed amendments at length.

Skov commented by adding these uses to the language in our zoning regulations, this would be a county-wide change but we could still control the use with the special use permit.

Stengel questioned if we would see the request to pump gravel along the interstate and if we would see these requests on separate special use permits.

Wietjes told her that was correct. Each request for a special use permit would be permitted on a case to case basis.

Hoffmeister referred to the following amendment:

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 ($\frac{1}{2}$) 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.

11.4 PROTEST

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the County Clerk within seven (7) days after the date of the conclusion of the Planning Commission's public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the County Board. (Resolution 10-10-03)

Robert from Knife River said the concrete is mixed at the plant site and then delivered to the construction site.

Amendment #1

Motion was made by Skov, seconded by Heiden to forward to the County Board with our recommendation to amend the Buffalo County Zoning Regulations as previously adopted and add the following to Section 5.34 as shown in the Agricultural-Residential (AGR) district to include the following use:

5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

#18 Mineral extraction, which shall include the following: oil wells, sand, dirt and/or gravel extraction and quarries accomplished through the use of water and aggregate pumping machinery.

Voting yes: Skov, Heiden, Erickson, Covalt, Stengel, Wietjes and Wolfe. Abstain: Keep.
Absent: Steinbrink. Motion carried.

Amendment #2

Motion was made by Wolfe, seconded by Covalt to forward to the County Board with our recommendation to amend the Buffalo County Zoning Regulations as previously adopted and add the following to Section 5.34 as shown in the Agricultural-Residential (AGR) district to include the following use:

5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

#19 Concrete batch and/or asphalt plant (s) that uses movable equipment utilized for area road or localized construction.

Voting yes: Wolfe, Covalt, Erickson, Heiden, Stengel, Skov and Wietjes. Abstain: Keep. Absent: Steinbrink. Motion carried.

Chairperson Wietjes opened the next hearing at 7:48 P.M. for a special use permit submitted by T & F Sand & Gravel, Inc. in part of the Northeast Quarter of the Southwest Quarter of Section 7, Township 8 North, Range 16 West of the 6th p.m., Buffalo County, Nebraska, to dredge gravel deposits and set up temporary highway concrete batch plant.

Rick Follmer was present on behalf of T & F Sand & Gravel, Inc. and also Robert from Knife River Midwest L.L.C.

Robert told the Commission they would use calcium chloride on the County roads to control the dust. The start date will be 4/1/09 and the completion date will be 11/29/09.

Wietjes went over the conditions the City of Kearney had placed on their conditional use permit for an area directly east of this project. They discussed these conditions at length.

The concrete work would be done during the months of August and September. Grading and concrete removal will be done before that time.

Skov questioned if we should put a time limitation on this special use permit. We probably could just put during the duration of the project as a time limit.

Wolfe asked what hours they work. Robert responded they usually work from 7:00 A.M. – 6:00 P.M. Monday thru Friday. They might work on Saturday in the event of rain. Once they quit paving, they cannot start again for about 10-12 hours. They would comply with the State of Nebraska DOT requirements. They would have clean-up after that.

Hoffmeister asked how many employees they would have.

Robert replied during the pouring of the concrete, they might have 100 employees. The preparation work would probably employ 40 people.

Hoffmeister also asked what County bridges they would use. Robert said he had contacted Ron Sklenar and the bridge loads were adequate.

Tim Sorensen was in the audience and said he has concerns of the traffic on 62nd Ave. He is not opposed to this project. He has lived in the area for about 28 years and said there are water issues in this area. He owns both sides of the road and he has contacted the County in the past for additional tubes in this area. The 62nd Ave. is not acceptable for that much truck traffic. He also voiced his concern at the City of Kearney meeting. He has talked with Ron at the Highway Department and been assured the County will get the tubes in as promised.

Robert from Knife River said rock will be brought in first. They will have between 40-50 trucks per day off Dove Hill Road.

Hoffmeister asked when the concrete reserves would be brought in. Robert said the cement pigs would be replenished during the night by approximately 5-10 trucks per night.

Klein asked if they would be bringing trucks in on both 62nd Ave. and Dove Hill Road.

Robert replied just Dove Hill Road since 62nd Ave was just used for the first project which was not approved by the Corps of Engineers.

Robert showed the route they would use from Highway 30 south on Dove Hill Road. They would bring the materials in from the north and take the finished product to the south through the right-of-way on the shoulder.

Rick Follmer asked to amend his application to add crushing facilities to the special use permit.

The Commission will correct that after they complete this hearing.

Chairperson Wietjes closed the public hearing at 8:13 P.M.

Hoffmeister questioned if we need to include any of the six conditions that the City of Kearney used.

Wietjes asked Follmer if any of the residents along Dove Hill Road had been notified of the upcoming project.

Klein told the Commission she had notified property owners within 300' of the proposed site. She did have calls from some of the property owners what was going to happen.

Hoffmeister asked if they would commence within 120 days and complete the project within 2 years.

Follmer said that would not be a problem.

Heiden and Wolfe asked where the crusher would be located.

Robert from Knife River said the crusher will be on site approximately 30-45 days.

Stengel commented she didn't think there should be time limitations on the permit.

Skov asked the distance from the City of Kearney's site and this site. This site is directly adjacent to the west.

Skov asked what a normal day would look like.

Robert replied a normal day would have employees arriving between 5:30 - 6:00 A.M. with one hour of prep time. Production time would be from 7:00 A.M. – 6:00 P.M. They would have about 2 hours clean-up. They would regularly work Monday-Friday and might work Saturday and Sundays in the event of rain. Construction activity will be going 24 hours per day.

Skov doesn't think time limitations should be put on the permit.

Stengel asked about the little buss house that was located on the site and asked what would happen if this was hit. She wanted to make him aware that school busses and children would be present during part of this project.

Robert from Knife River said he would meet with all of residents before they start the project. If there is a problem, he said the County can call him.

Motion was made by Skov, seconded by Heiden to forward this special use permit submitted by T & F Sand & Gravel, Inc. and Knife River Midwest LLC to the County Board with the recommendation of approval for a highway concrete batch plant, to dredge gravel deposits and to include concrete crushing and other activities for the duration of the I-80 resurfacing project located on the following described property:

A tract of land being part of the Northeast Quarter of the Southwest Quarter (NE ¼ SW ¼), part of Government Lot 7, part of Government Lot 8 and part of Government Lot 9 all located in Section 7, Township 8 North, Range 16 West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest corner of said Section 7 and assuming the West line of Government Lots 1, 5 and 6 of said Section 7 as bearing S 00° 03' 45" W and all bearings contained herein are relative thereto; thence S 00° 03' 45" W on the aforesaid West line a distance of 2638.34 feet to the Southwest corner of Government Lot 6, said point also being the Northwest corner of Government Lot 7 of said Section 7; thence N 89° 50' E on the North line of said Government Lot 7 a distance of 711.59 feet; thence S 00° 04' 52" W a distance of 1053.56 feet; thence S 89° 55' 08" E a distance of 100.0 feet to the ACTUAL PLACE OF BEGINNING; thence S 89° 55' 08" E on the aforesaid course a distance of 644.03 feet; thence N 00° 04' 52" E a distance of 346.64 feet; thence S 89° 55' 08" E a distance of 500.0 feet; thence S 00° 04' 52" W a distance of 60.31 feet; thence S 46° 10' 11" W a distance of 412.85 feet; thence S 43° 49' 49" E a distance of 268.33 feet; thence S 00° 04' 52" W a distance of 456.93 feet; thence N 89° 55' 08" W a distance of 1032.71 feet; thence N 00° 04' 52" E a distance of 650.24 feet to the place of beginning. Containing 18.00 acres, more or less. TOGETHER WITH HOWEVER, RIGHTS OF INGRESS-EGRESS over and across the

following described tract of land being more particularly described as follows: Referring to the Northwest corner of said Section 7; thence S 00° 03' 45" W and on the West line of Government Lot 1, Government Lot 5 and Government Lot 6 of said Section 7 a distance of 2638.34 feet to the Southwest corner of Government Lot 6 of said Section 7, said point also being the Northwest corner of Government Lot 7 of said Section 7; thence S 00° 04' 52" W and on the West line of Government Lot 7 of said Section 7 a distance of 33.0 feet to the ACTUAL PLACE OF BEGINNING, said point also being on the South line of a public road (Long Island Road); thence leaving the South line of said public road (Long Island Road) and continuing S 00° 04' 52" W and on the West line of Government Lot 7 of said Section 7 a distance of 117.0 feet; thence leaving the West line of Government Lot 7 of said Section 7, S 89° 55' 08" E a distance of 744.58 feet to a point on the West line of the aforescribed tract of land, said point also being 153.22 feet Southerly from the North line of said tract of land; thence N 00° 04' 52" E and on the West line of said tract of land a distance of 33.0 feet; thence leaving the West line of said tract of land N 89° 55' 08" W a distance of 711.58 feet to a point being 33.0 feet Westerly from the West line of Government Lot 7 of said Section 7; thence N 00° 04' 52" E and parallel with the West line of Government Lot 7 of said Section 7 a distance of 84.1 feet to a point on the South line of a public road (Long Island Road) said point also being 33.0 feet Southerly from the North line of Government Lot 7 of said Section 7; thence S 89° 50' W and parallel with the North line of Government Lot 7 of said Section 7 and on the South line of said public road (Long Island Road) a distance of 33.0 feet to the place of beginning.

This property is in the name of KST Farms, LLC.

Voting yes were Skov, Heiden, Erickson, Covalt, Stengel, Wietjes and Wolfe. Abstain: Keep. Absent: Steinbrink. Motion carried.

Klein said this hearing will be heard by the County Board on March 24.

The Commission will now address the added change in the zoning regulations as previously discussed.

Amendment #3

Motion was made by Erickson, seconded by Skov to forward to the County Board with our recommendation to amend the Buffalo County Zoning Regulations as previously adopted and add the following to Section 5.34 as shown in the Agricultural-Residential (AGR) district to include the following use:

- 5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

#20 Construction material crushing plant.

Voting yes were Erickson, Skov, Covalt, Heiden, Keep, Stengel, Wietjes and Wolfe. Abstain: none. Absent: Steinbrink. Motion carried.

Moved by Stengel, seconded by Covalt to adjourn at 8:45 P.M.