

MINUTES OF PLANNING & ZONING COMMISSION  
SEPTEMBER 17, 2009  
BUFFALO COUNTY HIGHWAY DEPARTMENT  
7:00 P.M.

Chairperson Wietjes opened the meeting at 7:05 P.M. at the Buffalo County Highway Department Building in Kearney, NE with a quorum present on September 17, 2009. Present were: Ken Erickson, Marlin Heiden, Willie Keep, Leonard Skov, Paul Steinbrink, Sr., Gwen Stengel, Craig Wietjes and Loye Wolfe. Absent: Karin Covalt. Also attending was Deputy County Attorney Andrew Hoffmeister, Zoning Administrator LeAnn Klein and four members of the public.

Wietjes announced there was a copy of the open meetings act posted on the easel 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 7:05 P.M. No one was present to address the Commission. The public forum closed at 7:05 P.M.

Chairperson Wietjes opened the public hearing at 7:06 P.M. for a zoning map amendment filed by Gary Day for property described as Lot 86, Village of Odessa, Buffalo County, Nebraska.

Gary Day was present and handed out a presentation to the Planning & Zoning Commission which explained the history of this lot along with pictures of the building before and after improvement of the structure and also a copy of the existing land use map taken from the Buffalo County Comprehensive Plan. He explained the last paragraph of the hand out lists the summary of the proposed use.

Hoffmeister questioned if all of the current members were on the Commission at the time it came before them back in 2008. There are two new members on the Commission that have never heard this.

Klein gave the dates of the previous variances and zoning requests for this lot.

Hoffmeister asked Day if Lot 86 abuts Highway 30 to the north, Webb Street on the east and the former Odessa school on east. Day replied that is correct. Hoffmeister also asked if this lot has access to city water or sewer which Day replied it does not have. Day gave the Commission a few minutes to read over the hand out he had given them.

Heiden questioned Hoffmeister if the County Board could change a zoning map amendment once the Commission has forwarded it to the County Board.

Hoffmeister replied, according to 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.

The Commission questioned why Lot 86 was removed from the rezoning process the last time this application was heard.

Klein gave a brief explanation to the newest members on the Commission of what had previously transpired at previous hearings for this property.

Skov questioned what has changed since the last time this was heard?

Day explained he had used this structure for climate controlled storage in the past. Because of the down turn in the economy, a large job has been placed on hold but he wants to be able to use this building for fabrication for solid surface countertops. He doesn't have a lot of room in his wood shop for storage and he is trying to do some long-term planning. The solid surface countertops take up a lot of space and he needs to use this building to be able to do this. Originally he had plans to use this lot just for storage.

Skov referred to the Buffalo County Comprehensive Plan and said this lot is shown as a Commercial lot and it only makes sense since it is next to a major highway.

Hoffmeister reminded the Commission this is the last remaining lot that has not been rezoned to Commercial along the highway.

Heiden questioned if these ovens used in the forming of this material give off offensive odors. Day replied he doesn't think the fumes are toxic. Heiden asked if he has an exhaust system in place. Day replied he does not have any exhaust system in place. Heiden also questioned the noise. Day replied this building has 14" walls and very well insulated and the noise of the saws are nothing compared to the noise of the trains.

Heiden also questioned the wooden fence to the north and west and also the chain link fence. Day replied he had put up a fence on the north and he thought he had an agreement with the neighbor and he was stunned to learn she had contacted the County numerous times. Day said there are a lot of ill-feelings and he is in the process of taking down the wooden fence on the north. The chain link fence is owned by the neighbor to the north. He said the chain link fence is encroaching on his property.

Keep asked if he is required to wear a mask or if the building needs some type of ventilation and also if the storage units are rented out.

Day replied he will check if a mask is required when he does the fabrication and currently he uses the storage units for his own storage.

Wietjes asked if he has any ventilation for this building. Day replied the doors might be open when the weather allows but otherwise this building is very well insulated.

Stengel questioned the noise level of the saws he uses and also what type of time frame are we talking about when he does the fabrication process. Day thought the fabrication process takes about two hours, off and on. He does not wear any ear protection and it is louder than cutting wood.

Hoffmeister reminded the Commission the question before them tonight is nothing about past problems with the fence or alley vacation but is this rezoning consistent to the Comprehensive Plan and should this lot be rezoned to Commercial.

Wietjes reminded everyone the Commission does not have anything to do with the issues of the alley vacation or the disputes with the fence.

Bev Refior was present and voiced her opposition to this rezoning. She lives on Lot 85 directly north of this property. She stated this has been going on for two years and she is sick of it. All the noise hurts her dogs' ears. She does not want this lot rezoned to Commercial.

Wolfe questioned what the hours of operation were for the noise? Refior responded sometimes it is until 7-7:30 P.M., other times it is until 6-6:30 P.M. She doesn't want the smell or noise. Wolfe asked her if the odor was going to change if this lot is rezoned to Commercial. She told the Commission she can't stand to use her back yard because of the smell.

Heiden said he doesn't think the smell of the glue used is that bad. He thought Day had improved the exterior of the building.

Skov asked why the County Board had asked that Lot 86 be withdrawn from the original rezoning.

Hoffmeister asked Refior what the uses of the surrounding property are. She told the Commission the area to the north is residential, to the east is the former school building, west is commercial and to the south is the Railroad and Highway 30.

Skov commented the Comprehensive Plan shows this lot as Commercial. The history reflects this lot has been Commercial.

Hoffmeister agreed the history of this lot has been a retail store, gas station and also apartments which indicates Commercial.

Wietjes closed the public hearing at 7:50 P.M.

Heiden asked if Day needed EPA approval. Day responded he will check into that. He was not aware of anything that needed their approval. Day told the Commission he has attended training for the use of this material and he has never been informed of any requirement for special venting. Day doesn't think the odor of these materials should be a problem.

Skov said this is a good spot for commercial zoning. There always will be an instance where two types of zoning will come together. This spot is perfect for Commercial zoning.

Keep asked if this lot should be zoned Industrial instead. Discussion followed by the Commission. Skov agreed Keep had a point but the question before them is should this lot be rezoned to Commercial.

Wietjes stated the Planning & Zoning Commission made their decision one year ago and their decision was to rezone this lot to Commercial. Instead it was changed when it was heard before the County Board.

Hoffmeister questioned if this lot would be able to remain AGR since there is no well or septic located on Lot 86.

Moved by Skov, seconded by Erickson to forward this application to the County Board with a recommendation that this application for a zoning map amendment from Agricultural-Residential to Commercial be approved for property described as Lot 86, Village of Odessa, Buffalo County, Nebraska.

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

Klein said this application will be heard by the County Board on the second Tuesday of October and notices again will be sent to adjoining property owners.

Old Business: Moved by Wolfe, seconded by Stengel to approve the minutes of the August 20, 2009 meeting as mailed. Voting yes: Wolfe, Stengel, Erickson, Heiden, Keep, Skov, Steinbrink and Wietjes Voting no: none. Absent: Covalt. Motion passed.

Since the majority of the Planning & Zoning Commission was present at tonight's meeting, the meeting location for future meetings was addressed. It was the consensus of the group they will continue to meet at the Buffalo County Highway Department building.

Other items of concern were discussed.

The next meeting of the Planning & Zoning Commission will be October 15, 2009 at 7:00 P.M. at the Highway Department.

Moved by Stengel to adjourn at 8:30 P.M.