

MINUTES OF PLANNING & ZONING COMMISSION
APRIL 18, 2013
BUFFALO COUNTY HIGHWAY DEPARTMENT BUILDING
7:00 P.M.

Zoning Administrator LeAnn Klein opened the meeting at 7:00 P.M. at the Buffalo County Highway Department building in Kearney, NE with a quorum present on April 18, 2013.

Present were: Scott Brady, Ken Erickson, Marlin Heiden, Willie Keep, Paul Steinbrink, Sr., Leonard Skov, Gwen Stengel and Loye Wolfe. Absent: Richard Skelton. Also attending were Deputy County Attorney Andrew W. Hoffmeister, Deputy County Attorney Kari Fisk, Zoning Administrator LeAnn Klein and three members of the public.

Notice of the meeting was given in advance thereof by publication in the legal newspaper. A copy of the proof of publication is on file in the Zoning Administrator's office. Advance notice of the meeting was also given to the Planning & Zoning Commission and availability of the Agenda was communicated in the advance notice. The agenda is available for anyone wanting a copy of the agenda.

Zoning Administrator Klein announced that in accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for review and we do abide by the Open Meetings Act.

Klein asked for nominations for Chairperson. A motion was made by Wolfe, seconded by Stengel to nominate Scott Brady for Chairperson. Klein called for nominations three times. There were no further nominations. Voting yes were Wolfe, Stengel, Erickson, Heiden, Keep, Skov and Steinbrink. Voting no: none. Abstain: Brady. Absent: Skelton.

Klein turned the meeting over to Chairperson Brady.

Chairperson Brady called for the election of a Vice Chairperson. Motion was made by Stengel, seconded by Wolfe to nominate Willie Keep for Vice Chairperson. Chairperson Brady called for nominations three times. A motion was made by Stengel, seconded by Skov that nominations cease. Voting yes were Stengel, Wolfe, Brady, Erickson, Heiden, Skov and Steinbrink. Voting no: none. Abstain: Keep. Absent: Skelton.

Chairperson Brady called for the election of a Secretary. Motion was made by Erickson, seconded by Wolfe to nominate Gwen Stengel for Secretary. Chairperson Brady called for nominations three times. A motion was made by Heiden, seconded by Erickson that nominations cease. Voting yes were Erickson, Wolfe, Brady, Heiden, Keep, Skov and Steinbrink. Voting no: none. Abstain: Stengel. Absent: Skelton.

The public forum was opened at 7:05 P.M. There was no one present to address the Commission. The public forum closed at 7:05 P.M.

Chairperson Brady opened the public hearing at 7:05 for a zoning map amendment submitted by Trenton Snow for Patriot Technologies, Inc. from Agricultural to Industrial on the following legal description: a tract of land being part of the Southwest Quarter (SW ¼) of Section Twenty-six (26), Township Nine (9) North, Range Fifteen (15) West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest corner of the Southwest Quarter of said Section 26 and assuming the West line of said Southwest Quarter as bearing SOUTH and all bearings contained herein are relative thereto; thence South on the aforesaid West line a distance of 1656.62 feet to a point on the northerly right-of-way line of the Union Pacific Railroad; thence N 73° 13' 15" E on the aforesaid right-of-way line a distance of 1804.84 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N 73° 13' 15" E on the aforesaid course a distance of 963.83 feet to a point on the East line of said Southwest Quarter; thence N 00° 02' 48" W on the aforesaid East line a distance of 334.03 feet; thence West a distance of 923.24 feet; thence South parallel with the aforesaid West line a distance of 611.77 feet to the place of beginning. Containing 10.02 acres, more or less, SUBJECT TO HOWEVER the West 33.0 feet of the North 205.8 feet of the above described tract of land to be used for ingress and egress easement purposes.

Trenton Snow, Land Surveyor, was present to represent Patriot Technologies, Inc. He told the Commission they want to rezone from Agricultural to Industrial. He told the Commission of the location of this property. It is east of Select Sprayers and directly east of M & N Millwright off Highway 30. It is a 10 acre parcel east of Kearney and abuts Highway 30. This is the last parcel that Devon Lewis owns that is situated directly off Highway 30. These two properties have also been rezoned to Industrial in the past years. The owners plan to put up a manufacturing/servicing facility for building waste water units in a semi-trailer.

Skov asked about the access off Highway 30. Snow responded they would be using the same drive-way as M & N Millwright.

Hoffmeister showed the Commission the future land use map and also referred to Section 11.3 of the Zoning Regulations. This is a map amendment.

Skov sees no problem in rezoning this property to Industrial.

Brady asked if this would be a manufacturing facility. Snow replied it would.

Erickson asked if they would have their own septic and well. Snow said they would have their own.

Stengel asked if the units would be plastic. Snow thought they would be.

Wolfe asked where the units would be cleaned. Snow replied they would have to clean these out at an approved facility.

Brady also asked the number of employees they would have. Snow said they would have four employees.

Brady closed the public hearing at 7:15 P.M.

Motion was made by Erickson, seconded by Skov to approve the zoning map amendment submitted by Patriot Technologies, Inc. from Agricultural (A) to Industrial (I) and forward to the County Board with approval on the following legal description: a tract of land being part of the Southwest Quarter (SW ¼) of Section Twenty-six (26), Township Nine (9) North, Range Fifteen (15) West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest corner of the Southwest Quarter of said Section 26 and assuming the West line of said Southwest Quarter as bearing SOUTH and all bearings contained herein are relative thereto; thence South on the aforesaid West line a distance of 1656.62 feet to a point on the northerly right-of-way line of the Union Pacific Railroad; thence N 73° 13' 15" E on the aforesaid right-of-way line a distance of 1804.84 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N 73° 13' 15" E on the aforesaid course a distance of 963.83 feet to a point on the East line of said Southwest Quarter; thence N 00° 02' 48" W on the aforesaid East line a distance of 334.03 feet; thence West a distance of 923.24 feet; thence South parallel with the aforesaid West line a distance of 611.77 feet to the place of beginning. Containing 10.02 acres, more or less, SUBJECT TO HOWEVER the West 33.0 feet of the North 205.8 feet of the above described tract of land to be used for ingress and egress easement purposes.

Voting yes were Erickson, Skov, Brady, Heiden, Keep, Steinbrink, Stengel and Wolfe. Voting no: none. Absent: Skelton. Motion carried.

Chairperson Brady opened the next public hearing at 7:16 P.M. submitted by Trenton Snow on behalf of Michael and Tara Rost for a zoning map amendment from Agricultural to Agricultural-Residential on the following legal description: a tract of land being the North 330.0 feet of the East 398.0 feet of the West Half of the Northwest Quarter of the Northeast Quarter (W ½ NW ¼ NE ¼) of Section Twenty-five (25) Township Ten (10) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

Trenton Snow was present representing Michael and Tara Rost. He told the Commission this property was located off 145th Road about ¾ mile east of Highway 10. The AGR line is ½ mile south of this property. They want to rezone a 3 acre parcel that they want to sell off to their friends. The character of the neighborhood will not be changed.

Hoffmeister asked how close to pavement this property was. Snow said it was about ¾ mile from paving.

Wolfe asked where their access to their property would be. Snow responded it would be off 145th Road.

Keep asked if it was just the 3 acre tract they are requesting to be rezoned and questioned why not the entire parcel they own.

Hoffmeister referred to the future land use map.

Chairperson Brady closed the public hearing at 7:22 P.M.

A motion was made by Stengel, seconded by Skov to approve the zoning map amendment from Agricultural (A) to Agricultural-Residential (AGR) and forward to the County Board with approval on the following legal description: a tract of land being the North 330.0 feet of the East 398.0 feet of the West Half of the Northwest Quarter of the Northeast Quarter (W ½ NW ¼ NE ¼) of Section Twenty-five (25) Township Ten (10) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

Voting yes were Stengel, Skov, Brady, Erickson, Heiden, Keep, Steinbrink and Wolfe. Voting no: none. Absent: Skelton. Motion carried.

The next hearing was opened at 7:23 P.M. that Section 3.20 and Section 3.21 of the subdivision regulations be amended.

Hoffmeister explained the following changes. Discussion followed. The hearing was closed at 7:58 P.M.

Motion was made by Steinbrink, seconded by Heiden that Section 3.20 and Section 3.21 be amended to read as follows and forward these changes to the County Board with approval. A motion was also made suggesting the fees for a vacation of a plat be the same as the fees for an administrative subdivision or \$125.00 plus publication costs instead of the \$250.00 as currently set. The fee for a vacation of a regular plat should remain at \$250.00.

3.20. MINOR SUBDIVISION CHANGES. Minor Subdivision changes may be used after approval of Final Plat or division of Final Plat for dividing one (1) lot into two (2) parts, combining two (2) or more lots (or parts of lots) into one (1) parcel, or a combination thereof; or moving lot line between two abutting lots or several lots that have a common lot line. This definition shall apply only once to any subdividing transaction or conveyance involving any specific lot or combination of lots. Transaction or conveyances classified, as minor subdivision changes are hereby deemed not to constitute a “subdivision” for purposes of this regulation.

A. **Conditions.** The following conditions shall be fulfilled to allow such change(s):

1. **Improvements.** All required improvements shall have been installed and be available to the resulting parcel(s).
2. **No changes in Dedications to Public.** There can be no new dedication and/or change of public rights-of-way. Any easement occupied by a utility cannot be changed.
3. **Remaining Parcels Must Comply with Zoning Laws.** All resulting parcel(s) of land shall comply with all other applicable zoning and subdivision regulations in effect at time of submittal of such application.
4. **Utility companies notified.** Party requesting change must provide written proof of all utilities that no utility occupies the easements to be moved.

B. **Minimum Requirements and Procedures for Minor Subdivision Change(s).** At a minimum the application shall contain the following:

1. **Legal Description with Survey.** Legal description of the property to be subdivided prior to and after minor change(s). A survey shall be attached to the application showing:
 - i. Existing subdivided land upon which the change is sought, and
 - ii. Proposed lots and abutting lots; and all existing structures, fences, and building setbacks on lots that are desired to be in effect after the minor change(s).
 - iii. The lot area in square feet and acres for each and any lot(s) created.
 2. **Fee.** Shall be paid by subdivider as established by Buffalo County Board of Supervisors.
 3. **Where Filed.** All minor subdivision requests shall be submitted by written application to the Planning and Zoning Administrator, signed by all parties having any right, title, or interest in the real estate described, on form provided by such office.
- C. **Review and Appeal.** The Planning and Zoning Administrator may approve or disapprove the minor subdivision application as submitted or require changes to the application.
1. **Approval.** In the event that the Planning and Zoning Administrator approves the application or the required changes after review are fulfilled by subdivider, the proposed subdivision is submitted to the Buffalo County Board for approval with the Board approving the subdivision by Resolution.
 2. **Disapproval Process and Appeal.** In the event that the Planning and Zoning Administrator disapproves the application or requires changes that subdivider will not fulfill, written notice of such disapproval or the required changes shall be mailed to address given on application. Thereafter appeals shall be allowed and conducted as set forth in Sec. 3.27.
- D. **Post Approval Procedures.** Following approval of the minor subdivision change request, subdivider proposing the minor subdivision change(s) shall have the responsibility for transmitting to, filing with, and paying any filing fees of such documents with the Office of the Register of Deeds. Minimally the following documents shall be filed with the Office of Register of Deeds:
3. The approved plat reflecting the minor subdivision;
 4. A certified copy of the resolution or minutes of meeting accepting said final plat if the Board of Adjustment approved it, and
 5. Any other data, documents, and/or items required by the Register of Deeds.
- B. **Failure to Timely File Approved Minor Subdivision.** Failure of the subdivider to file the approved application with necessary documents within six (6) months of date of approval by the Zoning Administrator and/or Board of Adjustment shall cause such subdivision request to become null and void and of no effect.

Sec. 3.21. VACATION OF PLAT (VOIDING).

A. **How commenced:**

1. **Property Owner or Party of Interest.** By the owner(s) and lienholder(s) of any subdivision or plat may file a request to vacate all or a portion of such subdivision or plat submitted to Buffalo County Clerk., Or

2. **Board.** By Board of Supervisors on motion of one of its members and majority vote of the Board.

B. **Filing fees:** When initiated by County Board, no fees. When initiated by owner(s), subdivider, and lienholder(s) by payment of fees as established by Buffalo County Board of Supervisors.

C. **How adopted, effect thereof, and notices required:**

1. **Notice:** The vacation resolution shall not be adopted until after notice has been given as prescribed in Sec. 3.26.
2. **Adoption and effect thereof.** Any person may appear at said meeting for the purpose of objecting to the adoption of the resolution. If the vacation concerns vacation or any plat, other than an administrative type plat allowed in Sec. 3.02 ~~The proceedings shall commence before the Planning and Zoning Commission shall be solely for that Commission's suggestion to the Board~~ to recommend or not recommend vacation together with any conditions thought necessary. Thereafter the Commission shall forward the same to the County Board for final action. The County Board is not bound by recommendation(s) of the Commission and may proceed to act on the question of vacation in its sole discretion. If the vacation concerns solely vacation of an administrative type plat as authorized in Sec. 3.02 or similar type plat creation where no public highway, road or street was needed to be constructed to access the property or was accepted in plat dedication, within the area of the vacated lot(s) the proposed vacation shall proceed directly to the Board. ~~The~~ Board after public meeting may then set forth conditions it deems appropriate and approve or disapprove the vacation and/or any portion thereof. Such conditions may include, but are not necessary limited to a statement declaring whether any public highways, streets, alleys, or other public grounds are to be retained by the County. Absent specific language to not retain public highways, streets, alleys, and other public grounds such items shall continue to be retained by the County. Any public utility company that has occupied or made use of easement(s) prior to vacation shall be unaffected by any vacation action of the Board.
3. **Post Board approval procedures:** If no appeal from the adoption of the resolution is filed within the time provided or if the resolution is upheld on appeal, Applicant(s) and/or Subdivider shall file a certified copy of the resolution of vacation shall be recorded by the County Clerk in the office of the Buffalo County Register of Deeds. The Register of Deeds shall then note such vacation on the plat or portion thereof by writing in plain legible letters. Such notation shall also contain a reference to the volume and page such vacation resolution is recorded. Thereupon, the previous subdivision, plat, or portion thereof shall be voided.
4. **Appeals.** Appeals shall be allowed and conducted as set forth in Sec. 3.27.

Voting yes were Steinbrink, Heiden, Brady, Erickson, Keep, Skov, Stengel and Wolfe. Voting no: none. Absent: Skelton. Motion carried.

Old Business: Moved by Erickson, seconded by Wolfe to approve the minutes of the June 21, 2012 as mailed. Voting yes: Erickson, Wolfe, Brady, Heiden, Keep, Skov, Steinbrink, and Stengel. Voting no: none. Absent: Skelton. Motion carried.

Other items were discussed.

The next meeting of the Planning & Zoning Commission will be May 16, 2013 at 7:00 P.M.

Chairperson Brady adjourned the meeting at 8:16 P.M.