

MINUTES OF PLANNING & ZONING COMMISSION  
APRIL 16, 2015  
BUFFALO COUNTY COURTHOUSE  
7:00 P.M.

Chairperson Scott Brady opened the meeting at 7:00 P.M. at the Buffalo County Courthouse in Kearney, NE with a quorum present on April 16, 2015.

Present were: Scott Brady, Marlin Heiden, Willie Keep, Richard Skelton, Marc Vacek, Randy Vest and Loye Wolfe. Absent: Leonard Skov and Paul Steinbrink, Sr. Also attending were Deputy County Attorney Kari Fisk, Zoning Administrator LeAnn Klein and nine 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.

Chairperson Brady 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.

The public forum was opened at 7:02 P.M. There was no one present to address the Commission. The public forum closed at 7:02 P.M.

Chairperson Brady opened the public hearing at 7:03 P.M. for a special use permit submitted by Roland Whitney on behalf of Carl Whitney Sand & Gravel, Inc. on the following legal description: a tract of land being Government Lot 5, part of Government Lot 6, part of Government Lot 7, that tract known as Lot 13 (also known as Graham Island), and accretion in Section 7; part of Government Lot 3, part of Government Lot 4, and accretion in Section 8, all in Township 8 North, Range 14 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Northwest corner of Government Lot 5 in said Section 7 and assuming the West line of said section as bearing S 00° 35' 27" E and all bearings contained herein are relative thereto; thence S 00° 35' 27" E on the aforesaid West line a distance of 1158.96 feet; thence N 86° 20' E a distance of 242.24 feet; thence S 89° 39' E a distance of 151.6 feet; thence S 74° 30' E a distance of 127.6 feet; thence S 80° 44' E a distance of 113.3 feet; thence S 85° 21' E a distance of 86.0 feet to the northwest corner of a tract of land described in a Joint Tenancy Warranty Deed recorded on Inst. 2006-8174 and filed in the Buffalo County Register of Deeds office; thence N 54° 17' 16" E on the North line of said tract a distance of 52.45 feet; thence continuing on the aforesaid North line N 72° 49' 20" E a distance of 195.83 feet; thence S 84° 51' 05" E a distance of 266.94 feet; thence N 84° 40' 41" E a distance of 100.61 feet to the northeast corner of said tract; thence leaving said tract N 59° 55' 10" E a distance of 135.45 feet; thence N 68° 00' E a distance of 432.9 feet; thence N 30° 35' E a distance of 131.7 feet; thence N 74° 48' E a distance of 224.2 feet; thence N 67° 53' E a distance of 486.8 feet; thence N 75° 28' E a distance of 93.3 feet; thence N 82° 02' E a distance

of 96.8 feet; thence N 77° 48' E a distance of 313.3 feet; thence N 71° 37' E a distance of 41.2 feet; thence N 42° 34' E a distance of 178.9 feet; thence N 51° 52' E a distance of 53.7 feet; thence S 88° 15' E a distance of 378.5 feet; thence N 88° 40' 30" E a distance of 219.2 feet; thence N 84° 29' E a distance of 592.3 feet; thence N 74° 07' E a distance of 1443.6 feet; thence N 70° 38' E a distance of 832.7 feet; thence N 77° 09' E a distance of 146.5 feet; thence S 85° 06' E a distance of 520.2 feet; thence S 78° 00' E a distance of 354.3 feet to a point on the East line of Government Lot 3 in said Section 8 (if extended southerly); thence N 00° 26' 41" E on the aforesaid East line (if extended southerly) a distance of 340.0 feet; thence S 84° 29' 14" W a distance of 3543.57 feet; thence S 78° 15' 31" W a distance of 1778.98 feet to the Northeast Corner of Government Lot 5 in said Section 7; thence S 89° 45' 01" W a distance of 2371.67 feet to the place of beginning.

AND

A tract of land being part of Government Lot 3 and part of Government Lot 4 in Section 7, Township 8 North, Range 14 West of the 6<sup>th</sup> P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of Government Lot 3 in said Section 7 and assuming the South line of said Government Lot 3 as bearing N 89° 32' 34" W and all bearings contained herein are relative thereto; thence N 89° 32' 34" W and on the South line of Government Lot 3 a distance of 66.45 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N 89° 32' 34" W and on the South line of Government Lot 3 and Government Lot 4 a distance of 2305.21 feet to a point, said point being the Southwest Corner of Government Lot 4 in said Section 7; thence N 00° 08' E and on the West line of Government Lot 4 a distance of 21.0 feet; thence N 85° 49' 47" E a distance of 137.6 feet; thence N 01° 29' E a distance of 18.58 feet; thence S 88° 59' 03" E a distance of 2167.0 feet; thence S 02° 18' 46" E a distance of 20.39 feet; thence S 00° 45' 45" W a distance of 9.19 feet to the place of beginning.

Deputy County Attorney Fisk referred to Section 6.2 for the process of a special use permit.

Leonard Skov arrived at 7:04 P.M.

Roland Whitney told the Commission he had bought this property and he is in the gravel business and sells to Buffalo County and other Counties. He showed the Commission on the GIS map where his property is located. There are approximately 110 acres.

Keep asked how many pits were located in this vicinity. Whitney said Platte River Recovery has pits, Werner has one to the south and Ron Follmer has pits to the east of this property.

Skelton asked how much he will pump? Whitney replied about 30 acres.

Vest asked how long he would pump? Whitney said that was kind of hard to determine because there are a lot of ifs.

Brady asked where he would start pumping? Whitney said he would start in the pond area located on the west side of the property.

Skelton questioned how deep the pond was? Whitney thought it was less than 10-15' deep.

Skelton also asked how much more traffic would occur? Whitney replied not that much. The road is sufficient for this amount of traffic.

Fisk asked if he would be adding any buildings? Whitney replied he might add a small office and might add a container to house his equipment.

Skelton asked if he would be adding any scales? Whitney said they have scales on their equipment.

Brady questioned if the use would be year around? Whitney replied probably not during the winter months.

Skelton asked how soon he would start pumping? Whitney said as soon as he got all the permits.

Vacek asked if there was open pasture and trees to the south? Whitney replied there is open pasture and trees to the south.

Heiden asked if he had gotten the necessary permits from the State? Whitney replied the County was the first permit he had applied for.

Wolfe asked how long he would be pumping? Whitney said it would be a long time.

Brady wondered if he would be moving east as time permitted? Whitney said he would move east and would only pump during daylight hours.

Mike Lange was present and he has lived around the pits for about 30 years. He lives to the north of the proposed site. The sand blows and drifts onto property. There are two waterways in this area and they shouldn't be blocked. There are two big culverts under Highway 10 and his concerns are that the waterways are not blocked.

Heiden asked Lange where the waterway is located? Lange said one of the waterways is south of the pond and runs to the east. He showed both waterways on the map.

Skelton asked how far his home was located from this property? Lange said he is about ¼ mile from the pit directly off of Highway 10.

Brady asked Lange if his concern is if the waterway is blocked, it would back up onto his property.

Heiden asked if the waterways are on Whitney's property? Lange showed on the map where the waterways are located and they do run east. One waterway is on the property line.

Vest wondered where the water flowed from the culverts. Lange said they flowed east.

Vacek asked if his main concern was impeding the waterways. Lange said he wanted to make sure they are left open.

Ike Mason also spoke and wondered if the permit was open ended? Is the permit renewed after a number of years? He showed the Commission where his home is located. His home is approximately 700' south of the pond. Mason also had concerns about the waterways being blocked. He wondered if Whitney would be using the north driveway. He questioned if some kind of review could be done on the special use permit. He would like some assurance that the pit won't be close to his home. Gravel pits can be an eyesore.

Keep asked where his driveway was located? Mason said his driveway is located off of Kilgore Road.

Mark Pearson was also present and told the Commission he has bought the other property located north of Whitney's property and has all the farm ground. He runs cattle on this property. He said Ron Follmer has never obstructed the waterways located in the area where Follmer currently pumps. He is a good neighbor and even maintains the road himself. He wants to clear some of the cedar trees on this property and lease pasture from Whitney for his cattle.

Ron Follmer was present and told the Commission he pumps to the east of Whitney's property. He follows what the Corps of Engineers dictates and also follows the floodplain regulations. He suggested Whitney keep a buffer of trees around Mason's property. Roland is fair and will do a good job pumping gravel.

Brady said it is very important that waterways are not blocked.

Fisk suggested they add special restrictions to the special use permit and also do annual inspections.

Chairperson Brady closed the public hearing at 7:50 P.M.

The Commission discussed different conditions they could put on this special use permit.

Skelton said Whitney could put the dirt back on area where pumped. He asked how far the meadow area was located from Ike Mason's house.

Mason said he only owns two acres and it was about 325' from the meadow area. If it is done correctly, he doesn't have a problem with the gravel extraction.

Keep has a problem with controlling neighbors. There is always a need for gravel and asphalt. Where else should a gravel pit be located than between two other gravel pits?

Vacek said a review of the special use permit would be helpful.

Fisk told the Commission the special use permit not tends to depreciate the value of the surrounding properties.

Heiden feels they could set perimeters and give a special use permit for the entire property.

Motion was made by Skelton, seconded by Heiden to approve the special use permit submitted by Roland Whitney on behalf of Carl Whitney Sand & Gravel, Inc. for gravel extraction and forward to the County Commissioners on the following legal description: a tract of land being Government Lot 5, part of Government Lot 6, part of Government Lot 7, that tract known as Lot 13 (also known as Graham Island), and accretion in Section 7; part of Government Lot 3, part of Government Lot 4, and accretion in Section 8, all in Township 8 North, Range 14 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Northwest corner of Government Lot 5 in said Section 7 and assuming the West line of said section as bearing S 00° 35' 27" E and all bearings contained herein are relative thereto; thence S 00° 35' 27" E on the aforesaid West line a distance of 1158.96 feet; thence N 86° 20' E a distance of 242.24 feet; thence S 89° 39' E a distance of 151.6 feet; thence S 74° 30' E a distance of 127.6 feet; thence S 80° 44' E a distance of 113.3 feet; thence S 85° 21' E a distance of 86.0 feet to the northwest corner of a tract of land described in a Joint Tenancy Warranty Deed recorded on Inst. 2006-8174 and filed in the Buffalo County Register of Deeds office; thence N 54° 17' 16" E on the North line of said tract a distance of 52.45 feet; thence continuing on the aforesaid North line N 72° 49' 20" E a distance of 195.83 feet; thence S 84° 51' 05" E a distance of 266.94 feet; thence N 84° 40' 41" E a distance of 100.61 feet to the northeast corner of said tract; thence leaving said tract N 59° 55' 10" E a distance of 135.45 feet; thence N 68° 00' E a distance of 432.9 feet; thence N 30° 35' E a distance of 131.7 feet; thence N 74° 48' E a distance of 224.2 feet; thence N 67° 53' E a distance of 486.8 feet; thence N 75° 28' E a distance of 93.3 feet; thence N 82° 02' E a distance of 96.8 feet; thence N 77° 48' E a distance of 313.3 feet; thence N 71° 37' E a distance of 41.2 feet; thence N 42° 34' E a distance of 178.9 feet; thence N 51° 52' E a distance of 53.7 feet; thence S 88° 15' E a distance of 378.5 feet; thence N 88° 40' 30" E a distance of 219.2 feet; thence N 84° 29' E a distance of 592.3 feet; thence N 74° 07' E a distance of 1443.6 feet; thence N 70° 38' E a distance of 832.7 feet; thence N 77° 09' E a distance of 146.5 feet; thence S 85° 06' E a distance of 520.2 feet; thence S 78° 00' E a distance of 354.3 feet to a point on the East line of Government Lot 3 in said Section 8 (if extended southerly); thence N 00° 26' 41" E on the aforesaid East line (if extended southerly) a distance of 340.0 feet; thence S 84° 29' 14" W a distance of 3543.57 feet; thence S 78° 15' 31" W a distance of 1778.98 feet to the Northeast Corner of Government Lot 5 in said Section 7; thence S 89° 45' 01" W a distance of 2371.67 feet to the place of beginning.

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21.0 feet; thence N 85° 49' 47" E a distance of 137.6 feet; thence N 01° 29' E a distance of 18.58 feet; thence S 88° 59' 03" E a distance of 2167.0 feet; thence S 02° 18' 46" E a distance of 20.39 feet; thence S 00° 45' 45" W a distance of 9.19 feet to the place of beginning with the following conditions:

1. Such quarry operation and site preparation, maintenance, and restoration shall be subject to all State and Federal Regulations.
2. Borrow material is allowed to be removed from the premises and thereafter sold or stored on the property.
3. Review every three years to be conducted by Zoning Administrator and submit a written report to the County Commissioners.
4. All excavation of soils shall be a minimum of 150' to the north, south, east and west property lines.
5. Design shall incorporate in plan, design and construction, a drainage plan that does not hinder the drainage and natural flow of water across the property.
6. Maintain perimeter vegetation, if on their property.
7. A 911 sign with designated address and telephone number to call in event of emergency.
8. Placement of a maintenance shed or container for storage of equipment and possibly an office type structure to be also located at this site.

The issuance of this special use permit is found to be in compliance with Section 6.2 of the Buffalo County Zoning Regulations because the proposed would:

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan.

Voting yes were Skelton, Heiden, Brady, Keep, Skov, Vacek, Vest and Wolfe. Voting no: none. Absent: Steinbrink, Sr. Motion carried.

Old Business: Moved by Heiden, seconded by Vacek to approve the minutes of the February 19, 2015 as mailed. Voting yes: Heiden, Vacek, Brady, Keep, Skelton, Skov, Vest and Wolfe. Voting no: none. Absent: Steinbrink, Sr. Motion carried.

Brady, Vacek and Wolfe discussed the NPZA conference they attended in March.

Other items were discussed.

The next meeting of the Planning & Zoning Commission will be held May 21, 2015 at 7:00 P.M.

Chairperson Brady adjourned the meeting at 8:35 P.M.