

MINUTES OF PLANNING & ZONING COMMISSION  
MARCH 17, 2022  
BUFFALO COUNTY COURTHOUSE  
7:00 P.M.

Notice of the meeting was given in advance thereof by publication in the Kearney Hub, the designated method for giving notice. 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.

Chairperson Brady opened the meeting at 7:03 p.m. with a quorum present on March 17, 2022.

In Attendance: Tammy Jeffs, Randy Vest, Scott Stubblefield, Francis "Buss" Biehl, Willie Keep, Marc Vacek, Loye Wolfe, Randy Vest, and Scott Brady.

Kurt Schmidt was absent.

Quorum was met.

Also attending were: Deputy County Attorney Andrew Hoffmeister, Zoning Administrator Dennise Daniels and Jon Sullivan.

Chairperson Brady announced The Open Meetings Act and agendas were available if anyone wished to have one.

Chairperson Brady asked Zoning Administrator Daniels if any changes were made to the agenda and Zoning Administrator Daniels stated that there had been a change under "New Business". She explained she would like to discuss the implementation of The Comprehensive Plan Survey with The Commission.

The public forum was opened at 7:03 p.m. The public forum closed at 7:04 p.m.

**Public Hearing. 7(a)**

Chairperson Brady opened the public hearing for Agenda Item 7(a) at 7:04 p.m. regarding an Application for Special Use Permit to operate a landscaping business, filed by Jon Sullivan, President of Firefly Landscaping Inc., for property located at 14310 11<sup>th</sup> Road, Elm Creek, Nebraska, 68836, described as Part of the Southwest Quarter of the Southwest Quarter of Section Five (5), Township Eight (8) North, Range Seventeen (17) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

Jon Sullivan, President of Firefly Landscaping, Inc., stepped forward. He explained that he had come in front of The Commission once before for his business, but that Special Use Permit had expired, due to lack of progress on construction.

Mr. Sullivan explained the original plan of the Special Use Permit was to add an office building on to the shop, but those plans have since changed. He said that it didn't happen because of issues with the septic system. He described where the septic system is located, and using the projected screen, with GIS imagery, he indicated where he intended to put the office building. Deputy County Attorney Hoffmeister asked Mr. Sullivan to confirm how many structures would be added and Mr. Sullivan stated that there would be an addition to an existing structure, for storage, and the construction of an office building. Two structures, in total would be constructed, Mr. Sullivan clarified.

Deputy County Attorney Hoffmeister inquired if Mr. Sullivan intended to use his existing parking, or if additional parking would be available. Mr. Sullivan stated that more parking would need to be added, and indicated the area of parking, composed of crushed rock.

Mr. Sullivan also disclosed to The Commission that he would like to grow Christmas trees. Deputy County Attorney Hoffmeister asked if they would grow them and sell them. Mr. Sullivan confirmed. Deputy County Attorney Hoffmeister stated that it would be a permitted, as it was agricultural use. He, then, asked if he would be selling the trees on the premises. Mr. Sullivan confirmed.

Deputy County Attorney Hoffmeister asked if fertilizer would be sold at this location and Mr. Sullivan stated that he did not. He explained he made his money based on the application of the fertilizer, not the sale of it.

Vice-Chairperson Keep asked Mr. Sullivan if his address is Elm Creek or Odessa and Mr. Sullivan stated that Elm Creek was his actual mailing address.

Deputy County Attorney Hoffmeister requested confirmation that Mr. Sullivan was requesting the construction of an additional structure, that was not made in prior application. Mr. Sullivan confirmed.

Deputy County Attorney Hoffmeister asked Zoning Administrator Daniels how far this property was situated from the Agricultural – Residential (AGR) District and Zoning Administrator provided the districtmap on the projector. Vice-Chairperson Keep identified it was ½ a mile away from the Agricultural – Residential (AGR) District.

Deputy County Attorney Hoffmeister asked Mr. Sullivan if he had a sign posted on the property. Mr. Sullivan stated he had a sign on the fence. Photos were reviewed.

Vice-Chairperson Keep asked what the structure addition would be used for and Mr. Sullivan stated it would be used as storage for the tree farm and the landscaping business.

Secretary Wolfe asked if there would be bulk storage of chemical conducted at this site and, if so, where. Mr. Sullivan answered there would be, but it would be stored inside the existing shop.

Mr. Biehl asked how the floods in 2019 affected Mr. Sullivan's property. Mr. Sullivan stated the building site was located high enough, that water never saturated his structures. Mr. Sullivan reviewed where flood waters accrued using the GIS imagery. Mr. Biehl expressed concern for

flooding. Mr. Sullivan assured him the structures had been constructed high enough to avoid the floodwaters.

Truck traffic was discussed.

Chairperson Brady asked Mr. Sullivan if retail sales would be conducted at this site and Mr. Sullivan answered, he would like to have retail available in the next five years.

Chairperson Brady asked if other questions need to be addressed.

Deputy County Attorney Hoffmeister asked Mr. Sullivan if there would be some retail sale of landscaping materials. Mr. Sullivan confirmed.

Mr. Sullivan asked about a greenhouse. Deputy County Attorney Hoffmeister stated that he would need a Zoning Permit and it would be a use by right in the Agriculture (AG) District.

Deputy County Attorney Hoffmeister asked if Mr. Sullivan did snow removal and if he kept equipment there. Mr. Sullivan confirmed. He stated he parks his trucks with blades at this property.

Mr. Vest asked if Deputy County Attorney Hoffmeister if there was any concern for confinement of chemical for this location. Deputy County Attorney Hoffmeister stated that it appeared that a small number of chemicals were held in bulk containers for immediate use. He said the principal use of the property is landscaping and chemicals are expected to be found on a property for that use.

Chairperson Brady closed the discussion on this agenda item at 7:22 p.m.

Chairperson Brady asked if The Commission had anything to add. Mr. Biehl voiced his concern regarding the floodplain. Deputy County Attorney Hoffmeister stated that it is important to be cognizant of how development occurs in the floodplain.

Deputy County Attorney Hoffmeister reiterated to Mr. Sullivan that a 911 address needed placed on the sign at the location. Mr. Sullivan agreed.

Motion was made by Mr. Biehl, seconded by Mr. Vest, to recommend favorably the Application for Special Use Permit to operate a landscaping business, filed by Jon Sullivan, President of Firefly Landscaping Inc., for property located at 14310 11<sup>th</sup> Road, Elm Creek, Nebraska, 68836, described as Part of the Southwest Quarter of the Southwest Quarter of Section Five (5), Township Eight (8) North, Range Seventeen (17) West of the Sixth Principal Meridian, Buffalo County, Nebraska, to the Buffalo County Board of Commissioners.

Upon roll call vote, the following Board members voted "Aye": Vest, Stubblefield, Biehl, Keep, Vacek, Wolfe, & Jeffs.

Voting "Nay": None.

Abstain: Vest.

Absent: Schmidt.

**Public Hearing. 7(b)**

Chairperson Brady opened the public hearing for Agenda Item 7(b) at 7:25 p.m. regarding Code Amendments to add and define “butchering facilities”, renumbered, to Section 3.3112, AND to add butchering facilities, handling less than 2,500 animal equivalent units per year, as defined in Section 6.4, to Section 5.62 (Industrial District) as a Permitted Principle Use and to Section 5.54 (Commercial District) as a Permitted Special Use AND adding butchering facilities handling 2,500 or more animal equivalent units per year, as defined in Section 6.4, to Section 5.64 (Industrial District) as a Permitted Special Use.

Deputy County Attorney Hoffmeister stepped forward to present the code amendments. Deputy County Attorney Hoffmeister stated that an individual came forward and asked about construction of a butchering facility. He stated our regulations do not currently include a butchering facility. He reviewed other counties’ regulations and, based upon those, he prepared a proposed code. Discussion occurred what other counties’ regulations read, but some were not applicable.

Deputy County Attorney Hoffmeister explained that he talked to butchering facilities across Buffalo County and it seemed that 2,500 animal units a year seemed appropriate. He presented two different definitions to The Commission, “narrow” and “broad”. He said the difference is the “broad” allows an owner to sell and process meat, but the “narrow” only allows applicants to process the meat that animals’ owners bring in. He stated that the broad definition can also sell incidentals that are associated with the business.

Deputy County Attorney Hoffmeister explained the exemptions to these regulations: Owners that butcher deer in their yards or companies that butcher an animal on the premises of the animal’s owner.

Deputy County Attorney Hoffmeister asked how The Commission felt about adding locker facilities. Vice-Chairperson Keep stated he believed it limited the use. Deputy County Attorney Hoffmeister agreed. Requirements of onsite sewage systems were discussed. Deputy County Attorney explained that the number of animals on the property, per year, would be calculated using our “animal units” tables from Section 6.4.

Deputy County Attorney Hoffmeister informed The Commission that large butchering facilities that butcher more than 2,500 animal units a year is only allowed in the Industrial District, by Special Use Permit.

Deputy County Attorney advised that animal units less than 2,500 would be allowed as a use-by-right in the Industrial District and by Special Use Permit in the Commercial and Agriculture (AG) Districts.

Vice-Chairperson Keep asked if a “meat market” scenario would be allowed and Deputy County Attorney explained it would be allowed to occur, if The Commission chose the “broad” definition.

Secretary Wolfe asked if existing business would be grandfathered and Deputy County Attorney Hoffmeister stated they could, but it would depend.

Mr. Biehl asked if a large butchering facility came in, wanting to butcher 7,000 head-a-day and Deputy County Attorney Hoffmeister stated that the company would need to make application for a Special Use Permit in the Industrial District. Discussion occurred regarding locations of Industrial Districts and whether large butchering facilities should be allowed. Chairperson Brady stated that he believed Buffalo County should allow large butchering facilities, via Special Use Permit. Large, local butchering facilities and their locations were also discussed.

Vice-Chairperson Keep asked how this amendment came about. Zoning Administrator Daniels explained a citizen contacted her about putting up a butchering facility, which would butcher animals for their owners, not for the retail sale of meat.

Discussion occurred the difference between a vet and a butcher.

The Commission members agreed they preferred the “broad” definition, which would allow an animal’s non-owner to bring meat in for the butcher to cut and sell, and any other incidentals.

Existing butchering facilities were discussed.

Secretary Wolfe asked for confirmation that any butchering facilities larger than 2,500 head is only allowed in the Industrial District by Special Use Permit. Deputy County Attorney Hoffmeister confirmed.

Chairperson Brady articulated he preferred the “broad” definition and Secretary Wolfe agreed.

Chairperson Brady closed the discussion on this agenda item at 8:03 p.m.

Motion was made by Mr. Vest, seconded by Ms. Jeffs, to recommend favorably the adoption of the following Code Amendments. The proposed language of this amendment is as follows, with appropriate renumbering where needed, if adopted:

To add as a definition:

“Butchering Facility. A Butchering Facility is any land, building, place, and/or establishment in which animals are slaughtered, eviscerated, and/or animal flesh is prepared for consumption of the owner *of the animal and/or the sale to the public of butchering produce with sales conducted at the Butchering Facility*. A Butchering Facility shall be served by an on-site sewage treatment system. The disposal of waste from the facility shall include a plan that shall include, but is not necessarily limited to, the disposal of all sewage, processed and unprocessed animal parts, manure, entrails, blood, hides, and bones. A Butchering Facility does not include land, a building, and/or a place that slaughters animal(s) or processes meat for the owner of the animal(s) on the premises of the owner of the animal(s) when the meat derived from the process is returned to the owner of the animal(s).”

To add as use by special permit in the Agricultural District:

“Butchering facility handling less than 2,500 Animal Equivalent Units per year as defined in Section 6.4.”

To add as a use by Special Permit in the Commercial Zoning District:

“Butchering facility handling less than 2,500 Animal Equivalent Units per year as defined in Section 6.4.”

Add as a use by right in the Industrial Zoning District:

“Butchering facility handling less than 2,500 Animal Equivalent Units per year as defined in Section 6.4.”

To add as a use by special permit in the Industrial Zoning District:

“Butchering facility handling 2,500 or more Animal Equivalent Units per year as defined in Section 6.4.”

Upon roll call vote, the following Board members voted “Aye”: Vacek, Vest, Wolfe, Stubblefield, Biehl, Jeffs, & Keep.

Voting “Nay”: None.

Abstain: Vest.

Absent: Schmidt.

### **Old Business**

### **Minutes**

Motion was made by Mr. Vacek, seconded by Vice-Chairperson Keep, to approve the minutes of the February 17, 2022 meeting, as presented.

Upon roll call vote, the following Board members voted “Aye”: Vest, Wolfe, Stubblefield, Biehl, Jeffs, Keep, and Vacek.

Voting “Nay”: None.

Abstain: Vest.

Absent: Schmidt.

Motion carried.

### **New Business**

### **Report on Previous Hearings**

Zoning Administrator Daniels provided a report on the previous hearings from the February 17, 2022, Planning and Zoning Meeting. The Commissioners approved the rezone, submitted by Don and Linda Kohlscheen, on March 8, 2022 and the Special Use Permit, submitted by Simplot, was approved March 8, 2022, as well.

### **New Business, Correspondence & Other Business**

Zoning Administrator Daniels highlighted the ETJ correspondence, for the city of Kearney, regarding Fountain Hills Fifteenth Addition. She requested The Commission review the proposed letter and let her know if changes needed to occur. No one requested changes.

Zoning Administrator Daniels discussed the implementation of the Comprehensive Plan survey and asked The Commission's wishes.

She reviewed the community councils/boards spreadsheet about signup and let The Commission know that the survey would go live March 18, 2022. She also wanted to ensure The Commission agreed with sending out an email to all the communities prior to the scheduled meetings to saturate the market. She also reviewed the press release and finalized survey. Additionally, she notified The Commission that she had presented pre-paid and pre-addressed envelopes to each member for their use.

After discussion, it was agreed that Tammy would attend the Kearney hearings (Planning Commission, City Council, and Public Schools) and wished to be added as an agenda item. Randy would attend Pleasanton hearings (Village Board and School Board) and wished to be added as an agenda item. Marc would attend Ravenna hearings (City Council and School Board). Scott Brady would attend Gibbon hearings (Planning Commission, City Council, and School Board). Loye would attend Amherst Village Board and Miller Village Board. Scott S. would attend Shelton hearings (Village Board & School Board) and wished to be added as an agenda item. Willie already attended Elm Creek School Board hearing and notified the secretary of the Village Board of the survey. It was recommended by The Commission to ask Kurt to do Amherst School Board and Village of Riverdale.

Scott S. suggested getting the survey put in a packet prior to the meetings.

Deputy County Attorney Hoffmeister also recommended sending the survey to Farm Bureau.

### **Next Meeting**

The next meeting will be conducted April 21, 2022.

### **Adjourn**

Chairperson Brady adjourned the meeting at 8:22 p.m.