

MINUTES OF PLANNING & ZONING COMMISSION
AUGUST 16, 2018
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 August 16, 2018.

Present were: Scott Brady, Marlin Heiden, Tammy Jeffs, Richard Skelton, Marc Vacek.

Absent: Willie Keep, Randy Vest, and Loye Wolfe.

Also attending were Deputy County Attorney Andy Hoffmeister, Zoning Administrator LeAnn Klein and Zoning Administrator Jason Wozniak, and two members of the public.

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.

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.

The public forum was opened at 7:01 P.M. Two people were present, but no one provided any comment. The public forum closed at 7:01 P.M.

Chairperson Brady opened the public hearing at 7:01 P.M. for a zoning map amendment submitted by Mitchell Humphrey on behalf of Peggy and Marty Garrels and Tedd R. Adams on the following legal description: A tract of land being part of the Northeast Quarter of the Southeast Quarter of Fractional Section 1, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska, with said tract of land being inclusive of Lot 2, Rouse Second Administrative Subdivision, an administrative subdivision being part of the Northeast Quarter of the Southeast Quarter of Fractional Section 1, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast Corner of the Southeast Quarter of Section 1, and assuming the East line of the Southeast Quarter of Section 1 as bearing S 00°34' 33" E and all bearings contained herein are relative thereto; thence on the North line of the Southeast Quarter of said Section 1, S 89° 30' 41" W a distance of 40.0 feet to a point on the West right-of-way line of Keystone Road (formerly known as Nebraska State Highway No. 10), said point being the Northeast Corner of Lot 1, Rouse Second Administrative Subdivision, an administrative subdivision being part of the Northeast Quarter of the Southeast Quarter of Fractional Section 1, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska; thence S 00° 34' 33" E parallel with the East line of the Southeast Quarter of said Section 1 and on the West right-of-way line of Keystone Road (formerly known as Nebraska State Highway No 10) a distance of 281.71 feet to the ACTUAL PLACE OF BEGINNING, said point of beginning being the Southeast Corner of Lot 1, Rouse Second Administrative Subdivision and

said point also being the Northeast Corner of Lot 2, Rouse Second Administrative Subdivision; thence continuing on the aforescribed West right-of-way line of Keystone Road (formerly known as Nebraska State Highway No. 10), S 00° 34' 33" E a distance of 211.14 feet to the Southeast Corner of said Lot 2, Rouse Second Administrative Subdivision, and said point also being the Northeast Corner of Lot 1, Rouse Third Administrative Subdivision, an administrative subdivision being part of the Northeast Quarter of the Southeast Quarter of Fractional Section 1, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska; thence leaving the West right-of-way line of Keystone Road (formerly known as Nebraska State Highway No. 10) and on the South line of said Lot 2, Rouse Second Administrative Subdivision and on the North line of said Lot 1, Rouse Third Administrative Subdivision, S 89° 30' 41" W a distance of 454.58 feet to the Southwest Corner of said Lot 2, Rouse Second Administrative Subdivision, with said point also being the Northwest Corner of said Lot 1, Rouse Third Administrative Subdivision; thence on the West line of said Lot 1, Rouse Third Administrative Subdivision, S 00° 34' 33" E a distance of 194.92 feet to the Southwest Corner of said Lot 1, Rouse Third Administrative Subdivision; thence on the South line of said Lot 1, Rouse Third Administrative Subdivision, if extended, S 89° 30' 41" W a distance of 130.00 feet; thence N 00° 34' 33" W parallel with the East line of the Southeast Quarter of said Section 1 a distance of 372.72 feet to a point on the South line of Lot 1, Rouse Administrative Subdivision, an administrative subdivision being part of the Northeast Quarter of the Southeast Quarter of Fractional Section 1, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska, thence on the South line of said Lot 1, Rouse Administrative Subdivision, N 89° 30' 41" E a distance of 130.00 feet to the Southeast Corner of said Lot 1, Rouse Administrative Subdivision, thence on the East line of said Lot 1, Rouse Administrative Subdivision, N 00° 34' 33" W a distance of 33.0 feet to the Southwest Corner of said Lot 1, Rouse Second Administrative Subdivision; thence on the South line of said Lot 1, Rouse Second Administrative Subdivision, N 89° 30' 41" E a distance of 454.58 feet to the place of beginning. Containing 3.31 acres, more or less.

Mitch Humphrey of Buffalo Surveying was present to represent Peggy and Marty Garrels and Tedd Adams. Humphrey stated the overhead shows the Lot layout of the area. George Rouse owned this convenience store. At some point he built a house and had 1 acre parcels that were surveyed off and all had access by an easement that was to the north of the homes. The practical access to these properties was through the field to the convenience store. After George was deceased family needed a way to divide up the assets. They came up with surveying the parcels into Administrative Subdivision using the ingress egress easement to have access to homes used on south side of the properties. Marty & Peg got the lot north of the convenience store and have since incorporated this into part of parking for the store. The septic system has been rebuilt south of the building and conforms to DEQ. Another strip west of the store had been sold which is farm ground. Currently owned by Tedd Adams and they plan to rezone and purchase this strip of land. Property to north of easement has been acquired by Peggy and Marty Garrels. Access is provided off the Highway in which State of Nebraska has granted and approved. Primary access is in front of the store. Secondary access is by the ingress-egress easement.

Humphrey explains area that Tedd Adams has agreed to sell to Peggy and Marty Garrels. This will give the store more area for trucks to turn around behind the store. They don't have intentions to let truck traffic to the west of what they are acquiring and they used to live out there

they don't want trucks driving down the easement road. They have barriers up to help prevent trucks from driving down the easement road to the homes.

Humphrey explains the use of the property and states they would like to re-zone the piece to Commercial to north of station and piece about 130 feet deep behind the store they plan to acquire from Tedd Adams. Once the zoning is approved they plan to do an Administrative Subdivision to have one large lot. The farm ground get access from the easement also. Humphrey stated the land to the east according to the future land use map is zoned Industrial. The node area we are talking about is zoned Commercial.

Hoffmeister explains the Industrial area to the east.

Brady explains use of property to the South of the convenience store and asks if this is approved to Commercial then will Mitch be back to rezone the other piece north of the easement. Humphrey stated he didn't know.

Brady asked if the piece west of the store is dryland farm ground. Hoffmeister stated this was part of this request. Humphrey stated he is representing Ted also. Hoffmeister explains the future land use map. Owner has been notified and property has been posted.

No one spoke in opposition.

Brady closed the public hearing at 7:25 P.M.

Hoffmeister asked how large the tract is. Humphrey state about 3.31 acres to be rezoned. Hoffmeister stated the piece they are expanding north and west. Skelton asks on the private drive will it abut the property. Humphrey explains the ownership of the easement. Hoffmeister explains that all of the Rouse children owned a lot. Houses have been there for 20-25 years and asks about the details of easement. Humphrey state it is for all the land and benefit of all the land that George owned and what Gary owned. Skelton asks could anyone close that drive. Hoffmeister stated they couldn't close drive and stated they may need a spill area and increase in sanitation and sewer. Skelton state his only concern is with access on the easement. Hoffmeister stated it has been a public use for some time.

Motion was made by Skelton, seconded by Vacek to approve this zoning map amendment from Agricultural to Commercial and forward with approval to the County Commissioners on the following legal description:

A tract of land being part of the Northeast Quarter of the Southeast Quarter of Fractional Section 1, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska, with said tract of land being inclusive of Lot 2, Rouse Second Administrative Subdivision, an administrative subdivision being part of the Northeast Quarter of the Southeast Quarter of Fractional Section 1, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast Corner of the Southeast Quarter of Section 1, and assuming the East line of the Southeast Quarter of Section 1 as bearing S 00°34' 33" E and all bearings contained herein are relative thereto; thence on the North line of the Southeast Quarter of said Section 1, S 89° 30' 41" W a distance of 40.0 feet to a point on the West right-of-way line of Keystone Road (formerly known as Nebraska State Highway No. 10), said point being the Northeast Corner of Lot 1, Rouse Second Administrative Subdivision, an administrative subdivision being part of the Northeast Quarter of the Southeast Quarter of Fractional Section 1, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska; thence S 00° 34' 33" E parallel with the East line of the Southeast Quarter of said Section 1 and on the West right-of-way line of Keystone Road (formerly known as Nebraska State Highway No 10) a distance of 281.71 feet to the ACTUAL PLACE OF BEGINNING, said point of beginning being the Southeast Corner of Lot 1, Rouse Second Administrative Subdivision and said point also being the Northeast Corner of Lot 2, Rouse Second Administrative Subdivision; thence continuing on the aforedescribed West right-of-way line of Keystone Road (formerly known as Nebraska State Highway No. 10), S 00° 34' 33" E a distance of 211.14 feet to the Southeast Corner of said Lot 2, Rouse Second Administrative Subdivision, and said point also being the Northeast Corner of Lot 1, Rouse Third Administrative Subdivision, an administrative subdivision being part of the Northeast Quarter of the Southeast Quarter of Fractional Section 1, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska; thence leaving the West right-of-way line of Keystone Road (formerly known as Nebraska State Highway No. 10) and on the South line of said Lot 2, Rouse Second Administrative Subdivision and on the North line of said Lot 1, Rouse Third Administrative Subdivision, S 89° 30' 41" W a distance of 454.58 feet to the Southwest Corner of said Lot 2, Rouse Second Administrative Subdivision, with said point also being the Northwest Corner of said Lot 1, Rouse Third Administrative Subdivision; thence on the West line of said Lot 1, Rouse Third Administrative Subdivision, S 00° 34' 33" E a distance of 194.92 feet to the Southwest Corner of said Lot 1, Rouse Third Administrative Subdivision; thence on the South line of said Lot 1, Rouse Third Administrative Subdivision, if extended, S 89° 30' 41" W a distance of 130.00 feet; thence N 00° 34' 33" W parallel with the East line of the Southeast Quarter of said Section 1 a distance of 372.72 feet to a point on the South line of Lot 1, Rouse Administrative Subdivision, an administrative subdivision being part of the Northeast Quarter of the Southeast Quarter of Fractional Section 1, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska, thence on the South line of said Lot 1, Rouse Administrative Subdivision, N 89° 30' 41" E a distance of 130.00 feet to the Southeast Corner of said Lot 1, Rouse Administrative Subdivision, thence on the East line of said Lot 1, Rouse Administrative Subdivision, N 00° 34' 33" W a distance of 33.0 feet to the Southwest Corner of said Lot 1, Rouse Second Administrative Subdivision; thence on the South line of said Lot 1, Rouse Second Administrative Subdivision, N 89° 30' 41" E a distance of 454.58 feet to the place of beginning. Containing 3.31 acres, more or less.

Voting yes were Skelton, Vacek, Brady, Heiden, and Jeffs.

Voting no: none.

Absent: Keep, Vest, and Wolfe. Motion carried.

Klein said this would be heard by the County Commissioners on September 11, 2018 at 9:15 A.M. and notices would again be sent out.

Chairperson Brady opened up the public hearing at 7:35 P.M. for a preliminary plat for Roubicek Subdivision submitted by Surveyor Mitchell Humphrey on behalf of Eric C.D. Roubicek and Heather Roubicek, on the following legal description: A tract of land being part of the North Half of the Southwest Quarter (N ½ SW ¼) of Section One (1), Township Nine (9) North, Range Sixteen (16), West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast Corner of the Southwest Quarter of Section 1 and assuming the East line of said Southwest Quarter as bearing SOUTH and all bearings contained herein are relative thereto; thence SOUTH on the East line of said Southwest Quarter a distance of 962.92 feet; thence N89°42'W and parallel with the North line of said Southwest Quarter a distance of 550.00 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N89°42'W and parallel with the North line of said Southwest Quarter a distance of 1529.66 feet to a point that intersects on the East right-of-way line of a public road in Raasch Subdivision, a subdivision being part of the West ½ of the Southwest ¼ of Section 1, Township 9 North, Range 16 West of the Sixth Principal Meridian, Buffalo County, Nebraska; thence N02°47'49" E and on the aforesaid East right-of-way line a distance of 60.0 feet; thence S89°42' E and parallel with the North line of said Southwest Quarter a distance of 953.28 feet; thence N00°18'40" E a distance of 400.3 feet; thence S89°42' E and parallel with the North Line of said Southwest Quarter a distance of 435.27 feet; thence SOUTH a distance of 173.84 feet; thence S25°40'57" E a distance of 318.42 feet to the place of beginning. Containing 6.37 acres, more or less. SUBJECT TO HOWEVER, right of ingress and egress over and across a 60.0 foot strip of land which is more particularly described as follows: Referring to the Northeast Corner of the Southwest Quarter of said Section 1; thence SOUTH on the East line of said Southwest Quarter a distance of 962.92 feet; thence N89°42' W a distance of 944.68 feet to the actual place of beginning; thence continuing N89°42' W and parallel with the North line of said Southwest Quarter a distance of 1134.98 feet to a point that intersects on the East right-of-way line of public road and Raasch Subdivision, a subdivision being part of the West ½ of the Southwest ¼ of Section 1, Township 9 North, Range 16 West of the Sixth Principal Meridian, Buffalo County, Nebraska; thence N02°47'49"E and on the aforesaid East right-of-way line a distance of 60.0 feet; thence S89°42' E and parallel with the North line of said Southwest Quarter a distance of 1106.93 feet; thence N42°40'36" E a distance of 225.54 feet; thence N65°22'41" E a distance of 142.93 feet to a point on the East line of the aforescribed tract of land; thence S25°40'57" E and on the Easterly line of the aforescribed tract of land a distance of 60.0 feet; thence leaving the Easterly line of the aforescribed tract of land, S65°22'41" W a distance of 132.00 feet; thence S42°40'36" W a distance of 240.00 feet to the place of beginning.

Humphrey explains that project went before the Board of Adjustments regarding road access and that Gary Roubicek purchase land on both side of the road. Land off the easement had been sold off both to the north and south of road and the road easement that goes to Gary's home. An ingress-egress easement was created that is 60 feet wide. Access is used for multiple driveways along the easement. Easement was created and surveyed off to conform to City of Kearney

regulations which was 60 feet wide at that time. Properties have been sold that are less than 3 acres. Parcel west of Gary's house was sold to Eric and Heather Roubicek. They now would like to split into two lots. Board of adjustments have given variance of easement road width, length and Lot 1 needs access also.

Hoffmeister stated the house set back was also part of the variance with the easement road narrowing by house which is shown on the map. Access to Gary Roubicek property is preserved as shown on plat. Easement has been recorded and in place for a number of years. They would create two lots of which Lot 1 would contain 3.13 Acres which is on the north side of the easement and rest of the ground which is easement leading into Eric and Heather ground would be 3.25 acres which is Lot 2. Not asking for County maintenance, they will keep addressing this locally.

Humphrey stated road was brought up with dirt from making drainage on these properties. Properties have adequate room for well, septic and leach field and stated that in Raasch Subdivision the County does not maintain the roads to his understanding. Hoffmeister stated it is by private easement, however they are named streets for 911 street address.

Humphrey stated the easement has a public address. Hoffmeister stated what you are seeing tonight is the two, three zoning methods of which have been developed. On Raasch you have 4 homes laid out, not necessarily platted out. Here you have 3 houses in red area that are metes and bounds platting as is the house to north of here. As you work through zoning as it gets more developed has evolve you will run into these situations. Utilities run along the easement road that go to your house. Properties this close to town we will see this kind of stuff becoming developed. Our job is to make sure you have accessible public access, have to anticipate all private road will become public. This is outgrowth as development occurs.

Brady stated looks straight forward.

Skelton asked if the steel building would go with Lot 1.
Humphrey stated it would go with Lot 1.

Brady asked if anyone in crowd had any thoughts or would like to address this topic and be on public record.
Skelton asked if a bit of the property would be in the floodplain.

Humphrey explained they brought the road up and added a tube to address how water flows. Hoffmeister state floodplain does touch the property. The road has not washed out in 25 years. Skelton stated that part of the lot looked low. Hoffmeister state that part is. The upper Northwest corner is in floodplain and when issuing a zoning permit we have to make sure not building in floodplain. If they do build in floodplain have to me certain criteria.
Brady asked if there were any other questions.

There was no one else that voiced any opposition.

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

A motion was made by Heiden, seconded by Jeffs to recommend approval and forward to the County Commissioners for this Preliminary Plat application submitted by Mitchell Humphrey on behalf of Eric C.D. and Heather Roubicek for property described as being:

A tract of land being part of the North Half of the Southwest Quarter (N ½ SW ¼) of Section One (1), Township Nine (9) North, Range Sixteen (16), West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast Corner of the Southwest Quarter of Section 1 and assuming the East line of said Southwest Quarter as bearing SOUTH and all bearings contained herein are relative thereto; thence SOUTH on the East line of said Southwest Quarter a distance of 962.92 feet; thence N89°42'W and parallel with the North line of said Southwest Quarter a distance of 550.00 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N89°42'W and parallel with the North line of said Southwest Quarter a distance of 1529.66 feet to a point that intersects on the East right-of-way line of a public road in Raasch Subdivision, a subdivision being part of the West ½ of the Southwest ¼ of Section 1, Township 9 North, Range 16 West of the Sixth Principal Meridian, Buffalo County, Nebraska; thence N02°47'49" E and on the aforesaid East right-of-way line a distance of 60.0 feet; thence S89°42' E and parallel with the North line of said Southwest Quarter a distance of 953.28 feet; thence N00°18'40" E a distance of 400.3 feet; thence S89°42' E and parallel with the North Line of said Southwest Quarter a distance of 435.27 feet; thence SOUTH a distance of 173.84 feet; thence S25°40'57" E a distance of 318.42 feet to the place of beginning. Containing 6.37 acres, more or less. SUBJECT TO HOWEVER, right of ingress and egress over and across a 60.0 foot strip of land which is more particularly described as follows: Referring to the Northeast Corner of the Southwest Quarter of said Section 1; thence SOUTH on the East line of said Southwest Quarter a distance of 962.92 feet; thence N89°42' W a distance of 944.68 feet to the actual place of beginning; thence continuing N89°42' W and parallel with the North line of said Southwest Quarter a distance of 1134.98 feet to a point that intersects on the East right-of-way line of public road and Raasch Subdivision, a subdivision being part of the West ½ of the Southwest ¼ of Section 1, Township 9 North, Range 16 West of the Sixth Principal Meridian, Buffalo County, Nebraska; thence N02°47'49"E and on the aforesaid East right-of-way line a distance of 60.0 feet; thence S89°42' E and parallel with the North line of said Southwest Quarter a distance of 1106.93 feet; thence N42°40'36" E a distance of 225.54 feet; thence N65°22'41" E a distance of 142.93 feet to a point on the East line of the aforescribed tract of land; thence S25°40'57" E and on the Easterly line of the aforescribed tract of land a distance of 60.0 feet; thence leaving the Easterly line of the aforescribed tract of land, S65°22'41" W a distance of 132.00 feet; thence S42°40'36" W a distance of 240.00 feet to the place of beginning.

Voting yes were Heiden, Jeffs, Brady, Skelton, and Vacek.

Voting no: none.

Absent: Keep, Vest and Wolfe. Motion carried.

Klein said this would be heard by the County Commissioners on September 11, 2018 at 9:15 A.M. and notices would again be sent out.

Old Business: Moved by Vacek, seconded by Skelton to approve the minutes of the July 19, 2018 as mailed.

Voting yes: Vacek, Skelton, Heiden

Voting no: none.

Abstain: Brady & Jeffs.

Absent: Keep, Vest, and Wolfe. Motion carried.

Other items were discussed.

Klein also reported on past hearings.

The next meeting of the Planning & Zoning Commission will be held September 20, 2018 at 7:00 P.M.

Chairperson Brady adjourned the meeting at 8:10 P.M.