

MINUTES OF PLANNING & ZONING COMMISSION
SEPTEMBER 20, 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 September 20, 2018.

Present were: Scott Brady, Marlin Heiden, Tammy Jeffs, Richard Skelton, Marc Vacek, Willie Keep, Randy Vest, and Loye Wolfe

Absent: None

Also attending were Deputy County Attorney Karrie Fist, Zoning Administrator Jason Wozniak, and ten 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. Several 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 Jerald D. Woitaszewski and Andrew Woitaszewski on the following legal description: A tract of land being part of the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) and part of the Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4) located in Section Ten (10), and part of Government lot Thirteen (13), part of Government Lot Fourteen (14) and accretions located in Section Three (3), all in Township Eight (8) North, Range Fourteen (14) West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest Corner of the Northeast Quarter of the Northwest Quarter of Section Ten (10) and assuming the South line of the Northeast Quarter of the Northwest Quarter and South line of the North Half of the Northeast Quarter of Section Ten (10), Township Eight (8) North, Range Fourteen (14) West of the Sixth Principal Meridian, Buffalo County, Nebraska, as bearing S 89°52'00" E and all bearings contained herein are relative thereto; thence N 00°41'48" W and on the West line of the Northeast Quarter of the Northwest Quarter of said Section 10, a distance of 33.0 feet to a point on the North line of a Public Road (Kilgore Road); thence leaving the West line of the Northeast Quarter of the Northwest Quarter of said Section 10 S 89°52'00" E and on the North line of said Public Road (Kilgore Road) a distance of 42.42 feet to the ACTUAL PLACE OF BEGINNING; thence continuing S 89°52'00" E and on the North line of said Public Road (Kilgore Road) a distance of 769.17 feet; thence S 17°47'29" E and continuing on the Northerly line of said Public

Road (Kilgore Road) a distance of 8.67 feet; thence N 54°17'53" E and continuing on the Northerly line of said Public Road (Kilgore Road) a distance of 1177.02 feet; thence N 49°47'04" E and continuing on the Northerly line of said Public Road (Kilgore Road) a distance of 501.58 feet; thence N 60°57'23" E and continuing on the Northerly line of said Public Road (Kilgore Road) a distance of 324.97 feet; thence leaving the Northerly line of said Public Road (Kilgore Road) N 01°49'07" W a distance of 200.07 feet to a point on an existing fence line; thence N 86°36'19" W and on said existing fence line a distance of 567.17 feet; thence continuing on said fence line the following courses and distances respectively:

S 73°54'16" W a distance of 236.25 feet; thence
N 74°55'55" W a distance of 107.03 feet; thence
S 86°38'05" W a distance of 229.06 feet; thence
N 86°51'35" W a distance of 174.79 feet; thence
S 80°31'06" W a distance of 204.03 feet; thence
N 22°26'43" W a distance of 113.66 feet; thence
N 73°22'52" W a distance of 296.32 feet; thence
S 82°23'33" W a distance of 96.48 feet; thence
S 63°33'18" W a distance of 301.25 feet; thence
S 81°51'37" W a distance of 167.24 feet; thence

S 01°19'01" W a distance of 24.5 feet to a point on the South line of said Government Lot 14 Located in Section 3 and said point being on the North line of said Northeast Quarter of the Northwest Quarter of said Section 10 and said point also being 87.55 feet Easterly from the Northwest Corner of the Northeast Quarter of the Northwest Quarter of said Section 10; thence leaving said fence line S 01°19'01" W a distance of 1283.95 feet to the place of beginning. Containing 52.31 acres, more or less.

Mitch Humphrey of Buffalo Surveying was present to represent Jerald D. Woitaszewski and Andrew Woitaszewski. Humphrey stated the map on the monitor shows the Lot layout of the area. The GIS is not 100% correct in showing the lot lines. Mitch points out what the Woitaszewski's own. The plan was to develop the parcel into 3-acre lots. Now the family does not want to do that and wants to sell off the property. First step is to get the property rezoned. There are multiple houses within 1,000 feet of each other. Property to the north was zoned to AGR to accommodate the distance restriction the AG zoning has. Mitch explains how Kilgore Road lays out and there are houses along Kilgore Road. The aerial map shows multiple sites out there. P and M development was created and these tracts are non-conforming as the tracts are too small. This was before zoning was enforced. Towards the east end of the property, the Woitaszewski's have a contract on that to convey 10 acres.

Brady asks if that is the tract that has a sold sign on it.

Humphrey stated that is new to him and did not know a sign was on property. Last time he was out there no sold sign was on property.

Brady asks if that is the property on the east end.

Humphrey stated yes it is the east portion. The intentions are to sell the property in larger tracts; they do not plan to develop as far as small house sites. If someone else wants to do that, it is up to them. They came to me and wanted to rezone property first. Then I was asked to address the

east portion. They would like to Rezone to match what is to the north AGR. What we are doing are matching the uses that are there, the uses up and down the road along Kilgore Road.

Heiden asks if property is in a floodplain.

Humphrey stated yes.

Heiden stated when we zoned property to north we had same deal it was in flood plain.

Humphrey stated if someone wants to build there, it be a 50-acre piece or divided up into 10 or 15-acre pieces or how they sell it anyone will have to deal with floodplain issues. As with anyone up and down that area.

Wolfe asks the 52 acres for what you are here for tonight it does not include the 10.

Humphrey state it does include the 10 acres.

Fisk asks are the owners of record here tonight.

Humphrey state no I am representing them.

Fisk stated that if the contract for sale has been executed then we no longer have valid applicant for the owners of the east 10 acres. If the contract has been executed then the applicants are no longer the owners of record.

Humphrey stated the applicants are the owners of record because there has not been a closed transaction it is just an agreement.

Fisk stated it really depends on the terms of contract. It could be that the buyers seek a rezone.

Humphrey stated I am not privileged to that information. All I know is of public record its Jerald Woitaszewski. All I know is they have a purchase agreement. I never seen it.

Keep asked wouldn't the date of this take precedence over the contract.

Fisk stated maybe. It would depend on what the real estate contract contains.

Keep asks if the blue line represents the section line.

Fisk stated yes.

Keep asks how many houses are in that Northwest Quarter of Section 10 already. Because if you want to build anything it needs to be zoned to AGR. On the map, I was counting four or five already. So it does not matter if you want to build one house it needs to be AGR.

Humphrey stated that is why we rezoned the property to the north to AGR. People wanted to build their homes but there was so many of them already.

Keep stated there are already more than four so to add one more we would have to rezone. To me it takes the question out.

Humphrey explains the 10- acre piece.

Brady asks if the party subject to the purchase agreement is present tonight.

Humphrey stated I think he lives in Grand Island.

Brady asks there is no transparency to what the intentions of the property are, just to rezone the tract.

Humphrey stated that is all. Like Keep said if anyone buys the property, it would need to be rezoned to build a house on.

Keep said it should be rezoned anyway because you have more than four homes per quarter.

Humphrey said even if I had an agreement to buy this property I would have to address this board to rezone to build a home. To me that is how we have to approach this.

Brady stated that Jason provided us with the background of how the tract to the north in Section 3 was handled in February 21, 2008. Planning Board voted 6-3, that property contain three tracts and be limited to one home per tract.

Wolfe state that was for 130 acres

Humphrey state that was the part to north.

Brady stated the County Board acted on this and that is what became reality. He asks Jason if this is how you read the minutes?

Wozniak stated yes.

Humphrey stated there was reasons why we did that, and starts showing on map that access for this property was by easement. That is why it had limitations.

Keep asked if it went up to interstate.

Humphrey stated it went to the center of the Channel.

Keep asked if it was the accretion.

Fisk stated in reviewing the minutes the three tracts had existed and no further subdivision requested at time that it was rezoned.

Keep asked if that was all they wanted.

Fisk stated it was already three parcels the parcels had been sold each purchaser had planned to build a home on their tract, okay with the limitation of one home per tract, and not seek subdivision. Looks like a case where the sale happened before change of zoning.

Lingle stated I am one of the three tract owners to north. On the map, he explained the 40 acres he owns. The other parcel #2 of the 3 is the accretion ground and the third of three is the 8-acre tract. This is where the three tracts are that we requested to be rezoned from Agriculture to Agriculture-Residential. A condition was placed that only 1 resident per tract. My concern is that this tract be considered one tract with a limit of one resident and be subject to the same kind of encumbrances.

Brady asks if you were comfortable with the arrangement that was reached.

Lingle stated at the time yes, but if this property is allowed to be subdivided into multiple tracts then I request that this resolution here be amended to what is allowed on this tract. If this tract is allowed 3-acre parcels then I would like my 40 acres to have the same condition.

Keep stated we are not looking at a subdivision we are looking at rezoning.

Lingle stated if this is considered one tract then I am fine with the rezoning.

Keep stated this would be another step for a subdivision. The paper work show one tract.

Skelton stated it is 52.3 acres

Lingle stated it could be 17-3 acre parcels

Brady states you have no rejection to the zoning as long as it is consistent with what was done as it was in 2008 or if it has changed you would like the opportunity to change yours.

Lingle stated it limits the value of the property plain and simple. If I could subdivide, it would be worth more than it is today. This application has been filed as one tract and would like it be looked at that way. I am comfortable with property being one tract with one home.

Keep asked if you live out there.

Lingle stated yes.

Keep do you want people next to you

Lingle stated no

Keep asks if your drive is part of the easement.

Lingle stated yes

Jim Wicht stated he'd point on map where he lives. I really do not want it to be able to be subdivided. I talked with my neighbor today and he said there are 45 houses on that road in 6 miles. The road is trashed all the time due to traffic. If you add 10- 12 more houses on it it is already terrible. It is in a floodplain and when we get a lot of water the water goes along Kilgore Road on that side of property.

Brady asks if that is south side

Wicht stated the northside; all of the water from west Highway 10 comes down an area and has to get back to river so water goes along that piece of ground. The east end of that property floods when you get 5 inches of rain. It then backs up on to my land. The south side has to go down before the north side will drain. It cuts across probably 20 acres of that ground.

Brady asked that your major concern is not that it is rezoned but to avoid a subdivision.

Wicht said a subdivision because then you are adding more culverts adding driveways.

Brady states you are consistent with Mr. Lingle in that.

Wicht stated if it were one house then I would be fine with that, but not subdividing it.

Keep stated anything built would have to be brought up above a point.

Wicht stated he had to bring his property up and could not have no basement. I am on a flat slab.

Brady asks if his property is along the red line on map. Is that a county maintained drive.

Wicht stated that is a private drive. I need to leave my driveway low so water will run to Woitaszewski to drain. There was a natural flow in that ground but they raised it when they irrigated it drainage was filled in. We get a lot of water in the area, which makes it a mess and the road is a mess due to traffic. They graded it on Monday and they came and did it today again.

By tomorrow, it will be terrible again. County told him they plan to raise the road a couple of miles regrade it and reditch it. That land needs at least a ditch put in so water will flow east

Brady asks if he thinks the accumulation of water is a problem in the area.

Wicht said yes if the water does not flow it will go to the other Woitaszewski brothers ground.

Majority of the water comes from north side.

Brady asks if water goes north by Mr. Lingle's.

Wicht points out on map how the water flows. If we get 5 inches plus rain this area will be under water until the flow goes down. I do not want another trailer park out there.

Humphrey stated I do not think it will be a trailer park

Wicht stated we have one with P&M subdivision

Humphrey stated that happened prior to zoning.

Wicht state one house I do not mind, I do not want more than that.

Dick Leisinger, I live east of property ¾ of mile. We got 45 houses between the Gibbon highway and Minden highway. That is 6 miles. We have the half pivot just north of this parcel. We bought 3 to 4 years ago. When we purchased they said it has a conservative lease on it. No houses. He asks this piece does not have that they are trying to sell.

Wozniak stated no.

Humphrey stated this piece does not have that.

Leisinger we purchased that we know we cannot put houses on that but we did not buy it to put houses on it. Out of all my neighbors, I do not think there is a one that wants another house on that road. We cannot keep the road up now. We gripe to the county daily about this road. We do not want more homes out there.

Brady stated I don't think the county has the money for major construction projects.

Leisinger said I am not for it.

Brady stated we are getting input tonight, which is good. Some meetings we do not get any.

Zach Fries shows on map where he lives.

Brady asks if he is south of the Kilgore Road.

Fries stated the road cannot handle what traffic it already has. County says it does not have any extra projects and all they can do is maintain. This board needs to take that into consideration.

If they cannot keep the road safe. We have kids that will be driving and are riding bus that get knocked around. If you add more traffic to the road, it will not be safe. My concern is not someone buying property and adding 1 house. But if you add several properties with families and several drivers, you will add that traffic to that road that already cannot be safely maintained and it is not safe at all. The road is bad.

Brady asks if this is a bus route

Fries stated yes it is and with trailerville there, there is a bunch of kids on the road especially in the spring it gets in horrible shape and kids getting thrown around on bus and getting bloody up. If we add more traffic, it will be that much harder for the county to keep it up. I do not want to put anything on the businesses out there they have a right to use those roads, not going to talk down to those businesses trying to do their jobs. It is the county's job to keep the roads up. Not a safe road already. You add more people on that road if they parcel this piece off it worries us. That is what I got.

Keep asks if that road used as a cut off road from Highway 10

Fries stated that people from Hastings will take that across. It is a busy road being from one black top to the other.

Keep says say we make it like a cul de sac so you could not get from Highway 10 to Lowell road

Fries says I would not want to do that to the farmers.

Keep asks I wonder what is causing the traffic.

Fries says you got 50 some houses in area.

Keep asks if people in trailerville are going to school in Gibbon

Fries states yes they are going to school in Gibbon.

Keep says they are cutting across the whole thing anyway

Fries says the go to Gibbon school all the way on Kilgore to Highway 10 then on the other side of Highway 10

Keep asks if the bus goes over there.

Fries stated not right now, because there is no one over there but it could.

Brady asks if the Kearney bus comes out there.

Fries stated no but the Minden bus use to come to Highway at Kilgore Road and Highway 10 and pick up a kid. But they would have to opt to do that.

Keep said everyone on Kilgore goes to Gibbon

Fries said they plan to do a project on overpass by interstate so who knows what will happen when that starts. Condition of road is bad and they cannot keep up with it. It is the first road they go to on Monday's and they are back again today. Mr. Maul knows it is just the way it is.

Keeps asks Ron is the road just soft.

Ron Follmer states that yes it is. It is a sand base. Part of the problem is Ron Follmer is out there to. County has taken steps they are on a budget we understand that. They did redo about a quarter of a mile past my place about year and half ago. They did make a clay base, which does help. I do not have a problem with a 1-house dwelling but I know my neighbors well enough that if I do a development it would be one maybe 2 houses there.

Brady asks where are you exactly located.

Wozniak points out on map that he is further west.

Follmer is showing on map and stating that he owns this house but does not live there right now.

I own the sand and gravel pit.

Keep stated he is closer to Highway 10.

Skelton said the good thing is you all get along on have respect for each other.

Follmer state if we get a development in there we have a lot of traffic now, I'll admit I run that road heavy and when new people move in you usually deal with 4 wheelers out on road. I am for growth but you had better look at this one a little in my opinion.

Janelle Wicht said I currently live in parent's house there. I am the tree huger in the group. In terms of what we are trying to do with we develop land and trying to develop the good of Buffalo County are biggest industry is cranes. This is prime crane country so I do not want to see, we already disrupt them and the Audubon society is near us but where do the cranes live. They live in our drive ways, roads and in that field so I just don't want us messing with the cranes because they are part of what makes Buffalo County special so I guess I'm the crane lover which adds two and half months which February to April we have crane traffic to.

Brady asks do lots of people park along the road.

Wicht states we chase people out of our fields. We like the cranes. Cranes have been coming for a million years and it brings in industry to Buffalo County. So we need to ask are cranes more valuable or houses more valuable, I don't know. So I just want to stand up for the cranes because if we migrate cranes, eagles out there and redwing black birds lots of bird migration, and lots of bird study going on out there so we have 45 houses already maybe 1 is okay but I don't want to interrupt, the cranes know where they want to go.

Keep says even with 45 houses. They have gotten use to it.

Wicht says they have gotten use to it. They do not go away. You can add all that tall grass like at the Audubon area they like our cornfields so that is where they are until the go over to the river. I think we are making an industry out of the cranes so they need a vote. That is my point. Cranes bring revenue and roads need to be good for crane season.

Brady asks but people do park along there in crane season

Wicht stated the do park along the road and they will be coming February and cranes stay until late April this year I believe and that month before people out there. I noticed there was a 2012-2022 plan on development in county. Is that right?

Brady stated a comprehensive use plan

Wicht it shows that area environmental study

Fisk states it is the future land use map

Wicht stated I don't know how that relates to where I am living

Keep stated yea you would be in the green

Brady ask anyone else.

Blake Lambert states I live here and shows on the map. For safety reasons, there is a curve here, here and right here and this right here are your absolute danger zones especially this curve right here when the corn is up and tall. You come around the corner and you cannot see nothing. It's blind the speed limit is supposed to be 45mph zone and people come flying by all the time. I have two daughters that play outside more traffic in the area would be more of a hazard in the danger zone.

Brady asks him to reintroduce himself.

Lambert says the roads; the traffic crane viewing is not parking on the side of the road its parking in the middle of the road. People getting out their cameras and the whole works. Right now the whole thing is zoned AG.

Wozniak states yea.

Lambert asks if its 50 some acres.

Humphrey states it is.

Lambert asks are you including the 10 acres under contract right now

Humphrey states I have to until sale closes.

Lambert states the sale finalizes this week with Mike Hutchinson. My thing is we lived here in Kearney probably 6 years ago and the same thing happened to us. We lived on 56th Street Place. They had it zoned it's a nice community cul de sac they had it zoned for one thing and then they want to rezone it and put up duplex's, triplex's all around this nice community. So we decided you know, they kind of screwed us on that but it was rezoned for one thing, don't know if they get greedy but they see more money in it they move stuff in. I feel like the same thing is happening here. We decided country living we moved out to the country great community the way it is 45 houses in a six mile stretch is still country living but the possibility of a multi just like the trailer courts down there if you put a multi zone area in there splitting up a lot of different ways, it's like I'm getting screwed over again. Where does country living start and stop. And I heard the gentleman mention before their not looking to split it up into a multi parcel and get a bunch of people in there which mean divide up right.

Humphrey states the zoning regulations prevent it

Lambert states yea I heard that I heard that when I lived in Kearney

Humphrey states we can talk about that later

Lambert states you hear one thing then all of a sudden things evolved and there is changes until things are in writing. It is like we have lost faith in what things are zoned for. This is Ag so Ag. So two months from now it changes to something else. We are not going to put up a trailer park or multi parcels or its going to change in about a year from now. People will talk and work things out. Where does it stop? We ran into the same thing here in Kearney. So my big thing besides the personal emotional part of it. It is a danger factor the roads are horribly maintained it is very sandy there is a lot of traffic from the sand and gravel pit there. We are right on there are a lot of dangerous areas but where our curve is right there that just unbelievable dangerous if we throw more houses in there its really going to crowd out, crowd the spot where its most dangerous, right there at that center point it's just going to be the worst spot on Kilgore Road and plus country living like Jim said we enjoy looking out our windows see turkey, deer, and cranes in that field are unbelievable. So I am going to be against zoning that to Residential even for one house so that my two cents. Thank you

Brady can I ask you something

Fisk states yes

Brady asks if this tract is sold in, one tract would the individual that buys the tract would they build a house on there.

Fisk states right now in its current state, no.

Keep says too many homes.

Fisk states we have too much density

Brady stated so there too much density there

Keep says yea

Keep asks too much density, say a tornado takes out all the houses in that top section what's that do.

Fisk states you got many landowners who have issues rebuilding.

Keep asks who gets to rebuild, only three per quarter in the current state so somebody is out.

Fisk states let's hope we don't have tornadoes go through one of these houses

Keep states unless it is zoned to AGR then they can build the fourth house that they are currently living in.

Fisk states anytime you have more than partial destruction in a nonconforming use.

Keep states 60%.

Fisk states you need to get back into compliance.

Keep says that is what I am saying; it is all AGR now anyway we are just living under AG.

Fisk asks because of some of the stuff that existed before zoning.

Keep says yea, now I agree with them all that the trailerville is a subdivision I do not see that we ever want to do anything like that through there again and they would not agree with it either.

Keep says that is why we are here some want one house and some do not want any more.

Fisk states that is the scary hurdle you take when you buy a lot in a nonconforming zoning.

Brady says whoever is next head up.

Dan Leisinger me and that's my dad out of the 45 houses that live on that road me and dad are the only farmers that live along that road. Part of the problem is we have part of the corn that blocks the intersections. We have trucks, Ron has trucks, there is another trucking outfit on the other end of the road, and I just do not want any more houses. It's hard enough to move equipment up and down that road the way it is. We farm probably half that island the way it is and I do not want to deal with any more cars. All of my properties drain into that channel right there. If you start putting houses there, it is going to block all that water. There is a channel in the river island that drains right to that corner. So, I am against it.

Brady says thank you.

Ryan Carson states I am on the east side of the current pink area that is currently AGR Ag Residential so I am in the Ag zone on this side. I was looking at the zoning regulations and thinking of some things, you as a zoning commissioner are asked to consider. Especially when you are here to consider special use permit applications and things like that and I think some of the factors are relevant. It is a lot of what some of my neighbors have shared with you. Looking at the current character of the district, that seems to be a factor what's the current zoning and why, why do we have this pink exemption in this sea of Ag because it's all AG up and down Kilgore Road you have this exemption in the pink area that Ag Residential so you need to look at the character of the district you got to look at, you know is the application in the amendment

going to depreciate the value of the adjacent properties, I think that is probably a factor I encourage you as a commission to think about, and is it going to change the character in accordance with the comprehensive plan, is it detrimental to the adjacent property owners, you know all these factors seem to be pretty important and what I hear my neighbors sharing in terms of the zoning amendment application is that it's going to change the character potentially significantly especially if the plan is to change it to Ag Residential and down the road they are going to come in and we are going to ask to subdivide and we are going to ask for special use permits, and then eventually is that going to turn into something like the community over here that we have the trailer park probably not quite to that level of extreme but it's possible and I think that highlights some of the problems is you as a commission are struggling with tonight. We do not know if the contract is finalized, we do not know who the owners are going to be and we do not know what the intentions are. And it was brought up earlier that if the part is sold then the application is under the wrong name and we need to have the current owners in here explaining to the committee and members that is why we have public hearings, as to what the intentions are for this property. I don't think you have enough information right now and it seems to me that it's premature to base this zoning amendment only on the application that we have filed and on the information that has been provided because we don't have any. We don't know what the intention is, is it to build one home, if that's the case then some of members, neighbors are okay with that, is it to build multiple homes then maybe it's not okay, how many homes, what you going to do with the road, how much density are we talking about here, what's that going to do to the conservation district, that's north along the river there. You got neighbors that mention wildlife, turkey, deer, and it's river ground so what's the density going to do to that, those are all questions that if I were on the commission I'd be asking the new owners, what are you going to do about this, is this really a good idea, I would encourage you to think about some of those issues and I just don't know as if we have enough information and I guess I'd close with this, it's interesting when you look at you got Ag ground all around here then you have that pink section that Ag Residential but as one of the neighbors shared earlier back in 2008 there was some pretty limited exceptions that were imposed on that it wasn't just let rezone that to Ag Residential and leave it at that. The commission in 2008 made a very specific point on saying, we'll do that but the limitations are three residential dwellings with one resident per unit. They were very specific and I wrote that down in case you want to look that up. It's recorded as deed instrument number 2008-3656 and it was resolution 2018-16 passed on February 1 of 2018. Keep and Wolfe point out in 2008.

Carson I'm sorry 2008 and its interesting because I think one of the commissioners points out that it was 130 acres. Three residential units, one per unit that is specific and I think they probably did it for a reason. I wasn't here; I wasn't on the commission so I don't know. If you look at where it is, you're on the river or close to it, so I think there is conservation issues that they were thinking about at the time. They were probably thinking of the traffic issues that some of my neighbors have brought up on Kilgore Road, how much more traffic can that road take and that was ten years ago and now we have even more people out there and of course you heard the impact of traffic so I won't go through that all again. So I'm with some of my neighbors I think growth can be a good thing, but in moderation and my position would be I think we need to have more information before I would voice my support for something like this. I can't voice my support because I don't know enough and I don't think you do either. I think if we did have more information I think it should probably be under the same limitations that exist on that ground to the north or something close to it. I think it has very specific limitations and an

understanding of what is going to happen to be allowed in the future to alleviate all problems that all these fine folks have already brought up. Therefore, with that I appreciate your time.

Brady can I ask are you a commuter on Kilgore Road.

Carson state I am so I live right over here. So I drive to the east. I'm on this property here and I drive to the east to Lowell and I work here in Kearney so that's the road I take but sometimes if I do go to Minden then I go the other way and its you've heard it, it's a bad road. It is scary I got twins that are almost sixteen that are driving so god help us all. It's a dangerous road and I do agree with more traffic it's just a recipe for disaster. Thanks

Shawn Sexson I'd be one of the newest residents on that road. I live just to the west of the bad corner down that driveway.

Brady asks which is the bad corner.

Sexson it would be this one here. This corn field at least some of the others you can see. This one's this one's, It is what it is but the biggest thing is too many residents or by passers don't respect the speed limit. They drive way to fast. I'm not sure if I'm one of the one's Jim was talking about. We've had an extreme amount of moisture we haven't flooded but we get wet. I can see if something is built there and it can't drain because you got a house built there or you got to build it up four foot to put a house in that is a problem. I also moved here from the sandhills because my wife wanted to be closer to civilization. I moved there to be in the country. I don't need any more neighbors. I don't want any more neighbor's period. Its like everyone has expressed, the road is poorly maintained and it can't stand any more traffic. And I live back our driveway is half way. Its three miles to Minden and three miles to Gibbon and both ends are the same. It's not good. I don't understand why anyone would be a mile from the interstate and use that as a cut across. I don't know how we stop that but their idiots because my vehicles show the wear and tear from going across them washboards. Its expensive to maintain them and I don't need anymore traffic to add to that and I'm like the gentleman back there I moved out here to be in the country. I didn't move there to get built on around. Thank you.

Brady asks if anyone in crowd requested a traffic count on that road from the county highway department.

Fries says I've talked with Mr. Maul many times but never requested a count.

Brady says it can be done. It gives you a good idea of how many cars go across the road.

Carson states I remember when I asked if there is a chance, it would be paved. He laughed and almost fell out of his chair.

Lingle states whatever number you come up with three months out of the year you can double that.

Brady says when the cranes come.

Lingle says February March

Humphrey says but to Scott's point with the traffic county is valid because if the highway department understands, I've worked for the county surveyors office, I was raised with that I understand what's going on with the highway department, if they understand what the traffic counts are then your more apt to get the road beefed up so to speak. So its true I get your concerns about that road I did survey work on that road when I was working for county and highway department would bring it up to speed. It's a whole lot better than what it was when I first started working in that office but it's not where it should be by today's standards and that's because people need learn the knowledge say hay we need some attention and that's true. We are kind of off topic here.

Brady says I can speak from experience, I live in a similar traffic situation where you folks do and the gravel road two years ago we experienced 389 cars in a 24 hour period. And so I identify with what you're saying and it's rough but it is after you've had a traffic count that you can establish that I do think it's easier to request law enforcement for speeding and those kind of things. Even if you got someone, going 84mph it's a good reason to have law enforcement and I'm serious about that. We have experience a number of fatalities over the years.

Brady states I'm totally with you as to this as the traffic deal goes and anyone else may have different ideas about that to. We have all experienced different things. And I think that is it. Is there anyone else that would like to say anything? Anyone we missed.

Lingle can I follow up again.

Brady absolutely

Lingle I just want to point out the cranes. This property is about less than a quarter of a mile from the south channel of the Platte River. Essentially, for all practical purposes it's owned by the national Audubon society. And that area holds large concentrations of sandhill cranes where the big bend reaches the Platte River and that resource is of interest significant it is the largest concentration of cranes and other species in the entire world. We got nearly 600,000 sandhill cranes passing through here each spring along with several hundred ducks, geese, this resource is unprecedented world wide its one of the greatest natural wonders on the planet. A lot of encroachment is less habitat available. That zone is critical habitat for these migratory birds. I did do an economic impact study on crane watching back in the early 80's and that point in time it was estimated at about a 15 to 20 million dollar influx of money to all of Buffalo County and that number I'm sure has increased significantly since then so it's a huge economic impact as well and 17 houses aren't going to help that cause either. So I just wanted to point that out.

Keep stated I don't know if we have the number of houses, we are talking about

Brady says just potentially at 3 acres I suppose that's what he is referring to.

Lingle 3 divided in the number of acres that is the potential

Humphrey I'm going to speak in terms of a lot of things here. Bare with me I respect everybody here I've grown up in this county I've worked around probably every corner of the county a for many of you included Mr. Lingle

Lingle exactly Mitch

Humphrey and I respect that. What I'd like to say is the comment first because it was one of the last one's made about the 17 lots potential here that calculation is misleading with the shape of that property even if someone came in and decided to divide it up into lots you are not going to get 17 lots because of the potential for roads and shape of the property with the triangle on the end so that can't be even a consideration so let's get past that.

Lingle we don't know who is going to purchase the lot. The property is for sale at the present time. Say its 10, say its five, or pick a number whatever it is.

Humphrey- I respect that but we have to use some real figures.

Fisk asks Mitch in the scope of your agency with your applicant the Woitaszewski's have they given you any guidance that you can affirmatively say they plan to do more than or less than a certain number of lots.

Humphrey-that's a good question, Kari I would say the answer six to eight months ago their intentions were for themselves to divide it up into lots that were four to five to six seven acres in that range but things have changed. They don't want to be developers they want to sell it as larger parcels ten acres and so forth. That's what they want to sell it as okay. So what I can't tell you is can't remember the gentleman that said Hutchinson is going to buy this, I don't know when it's closing.

Lambert says they closes Monday.

Humphrey says I don't know what he is going to do with this thing.

Lambert says he is keeping it Ag.

Humphrey states there you go that takes 10 acres out of the equation

Lambert-he didn't want any more neighbors so he bought it.

Keep-that's what I'm thinking too, if you don't want anyone, there get in and buy it.

Lambert-he'd buy the rest of it but at \$7,500 per acre

Keep you guys split it up, buy it yourselves, and keep them out. But you can't buy it until its AGR.

Humphrey that's the issue here. Whether there is one, three, five, seven, eight houses out there whatever it may be what ever it is, it needs to be zoned

Lambert-that's what you said when we lived in Kearney. He goes to one thing then another and another and does not stop.

Humphrey-what was your first name.

Lambert- because I believe you're the one that when we lived in Kearney that handled that.

Humphrey -Yea I want to talk with you about that. Blake here is the deal and this goes for everyone here, the planning commission, what happens with the zoning project whether its in the City of Kearney or Gibbon or Grand Island, Buffalo County, Hall County or where ever it is they zone the property first and then the next step whether its done one year, three years, five years, at the same time the next step is to look at the layout and the platting of the property so it another layer of review, okay right.

Lambert-Yea

Humphrey-so it another layer of review that gives people a chance to the planning commission, the board of supervisors, councils and so forth a chance so theirs another layer here its not like its going to rezoned and then you'll see a trailer park there or bunch of little lots there. Or even fifteen, fourteen, thirteen, eight residential lots, Ag residential lots okay, just by having this rezoned doesn't destroy your concerns of a trailer park or for having this land split up. I've heard anything from forty to sixty let say forty-five whatever how many houses out there in an area, I've stated it, maybe Willie stated it that its Ag-Residential but zoned Ag. It's used as Ag-Residential but a lot of it is zoned Ag or use is Ag around it but it's used as Ag-Residential but zoned otherwise is what I'm trying to say. So, I'm looking at this from a simplicity practical standpoint representing Woitaszewski's and trying to respect your wishes here and your opinions as far as wishes with restrictions on zoning, I get that but I'd wouldn't want it zoned single family residential or denser, that's impossible anyway, to have another P&M subdivision, the way the regulations are they don't allow for it period. But I respect all that but your going to get an opinion or a say so. Let's say I sell this to Mr. Jones or I buy the ground from Woitaszewski's then I say the 10 acres that I'm buying then I'm going to sell to Mr. Jones and Mr. Jones wants to develop it into lots. They need to come right back here and present that plat. Come right back here and have a hearing and that review process. That's where the rubber hits the road in that regard.

Carson- Well they don't if you keep it the current zoning.

Lambert-If it's left at Ag then we don't have those layers. If you rezone it, there is another layer, then another layer and another layer and where does it stop.

Humphrey- I understand that

Lambert-Where does it stop. That's my concern like in Kearney its zoned one way and then oh lets rezone it and you have a nice community then they surround it and where do you stop. Out here its country living zoned Ag, let's keep it Ag, you have no more layers its cut and dry, and everyone knows what's going on. Like Mr. Carson said we don't know what's going on right now we don't know what they plan on doing what its going to be zoned for what he wants to put in there you keep it Ag no layers.

Sexson-The only reason they want to rezone it is to increase the value of the land. It's not worth \$7,500 an acre as farmland.

Lingle asks are we talking about the 42 acres then minus the 10-acre piece.

Fisk says Mr. Chairman can suggest that we have Mr. Humphrey finish his presentation then have each landowner another opportunity to finish so we are not having competing conversations for purpose of the record.

Humphrey- Yea I'd like, thank you I guess I want to respond to a couple of things and again I respect the conversation that are I think a driving point or critical or major point brought up by the landowners is the traffic and I get that and understand that and that's an issue that is beyond the zoning from beyond a standpoint that we already have forty-five house on a stretch between Lowell Road and Highway 10 or the Minden Road and Gibbon Road as we will call it, we know we have an issue that the Highway Department has to address, we know a traffic count issue or situation might help resolve that, I understand that but that just something of a situation all along this road is beyond the scope of the zoning so to speak. And unfortunately I follow zoning in other communities an example would be a major road in Lincoln where the City is growing out that way and theirs been issues with maintenance of that road and improvements along the road and unfortunately county government is reactive instead of pro active in many cases as the City of Lincoln and Lancaster County is with that road and the growth they are experiencing in south Lincoln I understand that but their needs to be a balance here and all we are doing are coming in and asking for the zoning so the land can be sold. It appears for the intent of the Woitaszewski's not to develop I can say that as their agent because I had several different lay outs done for large lots and they pulled back and said Mitch we don't want to do that. That's not what we want to do so for me that's off the table I can't tell you what the next buyer might come in with but they have to come in with a plan that would have to be approved not by just this board but with well and septic issues they're going to look at storm water management issues, access points off of this road that comes up their at an angle and all that would have to be looked at. I don't honestly I don't think that's a problem with zoning it's a problem with the preliminary plat and use issue on down the road keep in mind that even if there is one house, two, three or five on this 50 acres we have to zone it to even get the one house. Contract zoning like what we did on the other parcel with all that was going on up there that a different situation, Contract zoning by large is a bad land planning tool to use but that was a situation where the parcels sold then it was found out that the parcels or the people that bought the parcels wanted to build houses on there we had limited access with that long road that went in there and with what we had to work with at the time and that was the solution that they came up with and to be honest with you I do not understand why other than some, I don't remember the exact word some issues with the parcel that has the pivot on it to north as far as the agreed upon land use that was beyond the county's

per view. So that became a situation where that couldn't be developed at some point in time unless those arrangements for the restriction use could be changed. That to me is another issue in its entirety.

Got a lot of comments thrown out here just let me double-check this. I guess I want to reinforce that I think you can zone this property without having a whole lot more information on this piece of property as far as what potential users going to use or what a buyer's going to use it for as far as how many lots are concerned. I don't think you need to put restriction on it at this point in time. I think what you need to do is look at it from the standpoint in that if there is acreage's sold and wants to divide it up then that's where the rubber meets the road that's when this board and the county board and neighbors can say no we don't want it pick a number twelve houses out here on the large lots but keep in mind we have to zone it to get one house period we have to zone it but contract zoning is not the answer at this point in time I guess if you have any questions I can answer them.

Wolfe asks is this application valid where it says it's for 52.31 acres

Fisk that's a question will have to encounter, discuss and the end of the public hearing. I'd rather get through the public hearing portion before we start tackling all the assorted considerations and issues.

Brady-Does anyone have any questions for Mitch.

Ron Follmer- I have no problem with growth and I understand you there a lot of times when I'm presenting this and doing my stuff for gravel application I have to go through the corps of engineers, I have to do a water study, and probably that one of my big concerns here is we probably need a water study

Humphrey- I'm glad you brought that up that going to be one of the items of storm water management looked at when or if someone would request for platting that's a spot on. Thanks Ron.

Follmer- I do know that like Jim said the water goes on the north side Buffalo County is aware of that and that's where it goes. In my opinion, I feel we need a water study on it and because I have to present all those kinds of things to the planning board when I'm doing my projects.

Humphrey- Ron your spot on but you're working on doing the development all we are trying to do is get the rezoning and then the next step would be if there is a plat presented a preliminary plat presented then yes we would have to provide a drainage and water study as you say we have to look at things such as well and septic separation if the project is dense your spot on. I agree with you but that's the next step if it should get to that point.

Keep- His water study is even when he's pumping so to make sure our dikes are diverting water in a different direction

Humphrey- that's part of a gravel operation

Keep-yea, I know what you are saying you cannot put a house somewhere and the water has to go a different direction of the natural flows

Humphrey that is true

Keep it's got to go the same way

Humphrey that a good point that's the law you cant as an ag producer or someone with rural property or if you're in development you cant divert anymore water on anyone else or go in there without doing the study and you can't change the flow nature of the water that's spot on.

Keep- so there is a limit if they do anything even if its 52 or 40 acres or whatever is left.

Humphrey- yea 50 acres the whole piece that's spot on

Follmer-one other thing I want to say about Buffalo County that road in 1999 when I went out there was a lot worse. It has improved but it needs more improvement. But for Buffalo County the have done, when I first came out there I tore it up going to the west and they made it so I can get in and out so I do appreciate that and say thank you.

Humphrey- Buffalo County, John Ron Splitter and Bill Maul even before him ought to be commended for what they done to that road. When I first started working with the County that road was virtually a trail. It was not very good and that was in the early 1980's and we surveyed it brought in center line market the right of way and made it better your right Ron it's remarkably better than what it was, it's a much different looking road, now does in need to get better yea, absolutely.

Follmer-John or Jim Gruner that's our blade man that's on our road now is probably one of the better blade men we've had. I do run equipment so I do judge on that I feel he does about as good as can be expected with what he has to work with.

Dan Leisinger- If Woitaszewski's are selling this then why don't the let the other landowner do this. If they have know idea of what its going to be then why not sell as a farm and who ever else buys this can do this.

Humphrey that's a good question and that's a personal choice on their part.

Leisinger- is it to make the ground more valuable to sell it right now.

Humphrey I don't necessarily believe that's the case. What they did do is pull the trigger and say Mitch rezone this.

Leisinger-If they are selling it what difference does it make to them what it is.

Humphrey Because you can only

Leisinger- The reason is to get more money for it.

Humphrey that can't be a consideration here you got to admit you do things so you get more money out of it.

Leisinger Yea but I don't go to the County Board to get more money out of it.

Humphrey Here is the deal they came to me and said Mitch get this rezoned and make the application and so on and so forth so I did and then they came or the realtor came to me and said we need to divide the 10 acres off the east side they are going to put it up for sale. So I did it and here we are. So I can't answer that. Why because that's what they asked me to do. It was my opinion that they were going to rezone it and then step through the process of picking up the project that had dropped off and that hasn't come too.

Leisinger When I have talked with Mike Hutchinson and he needs to be here before anything is done as far as I'm concerned. They are going to zone that piece that he bought and he bought it so it couldn't be zoned so he didn't have any neighbors and when they went around the next piece and try and zone it.

Humphrey- No that's not it. The fact is that they came Woitaszewski came and wanted the whole 53 acres zoned then the realtor came to me and can you survey off that 10 acres and said he was representing Woitaszewski and can you survey off that 10 acres.

Leisinger- I think Mike needs to be here to tell exactly what's going on before anything is done

Humphrey- I'd imagine if you want a letter from Mike at the County Board meeting that says go ahead and zone it I could probably get it. I know who Mike is.

Carsen- I live on Kilgore Road, Mitch I appreciate that you're here as a representative of the Woitaszewski's. Did you say they lived in Grand Island?

Humphrey- No

Carson- Or Wood River

Humphrey Wood River

Carson- Okay

Humphrey- Mike Hutchinson I believe lives in Grand Island.

Carson- So I'm a little confused Mitch because I thought you said earlier that the Woitaszewski's came to you and you showed them some plans and that they had indicated they wanted this for themselves and they were thinking about subdividing having 4 to 5 acre lots for themselves

Humphrey- Well that's true

Carson -so of the 52 acres are they going to build 10 homes for themselves, are they're going to be 5-acre lots

Humphrey- No let's not try and twist things around Ryan, they came to me with the intention of developing that so they could sell lots for themselves. What I meant by that is it is their development.

Carson-Okay so the intention is

Humphrey-The intention was

Carson-Part of the problem Mitch is we don't know what their intention is today.

Humphrey- I had told you it is that they want to sell it off into larger pieces to people that want to build a home

Carson- So is their intention today Mitch as far as you know that they want to sell it off in to 4 to 5 acre lots. In other words the plan is to put at least 10 homes on that parcel

Humphrey No their intention is not to develop it. Their intention is to sell it off into larger pieces to you or anyone else here that may want to buy a piece and they would want to address any development which would mean as I stated very clearly that they would want to go through they meaning the new buyer or the owner if they want to develop it would go through a process to have a platting project heard.

Carson-So then the plan would be so I understand that they wouldn't develop it I simple understand that they would sell those lots. The plan though would eventually be up to 10 homes on that property 52 acres or the 42 acres of the original whatever is left.

Humphrey- No the plan would be to develop it into large parcels not develop it sell it as larger parcels and let a potential buyer to decide what he wants to do with it. Now that might mean they could sell the 53 acres, I'm going to use some simple math here into 10 plus acre parcels which would mean you might have 5 parcels and then you might have 5 people who want to build homes out I'm just theorizing there and you might end up someone that just might buy 20 acres and build a home out there. How many acres do you have?

Carson- Nineteen a little over nineteen

Humphrey you have been there how long

Carson a little over 3 years

Humphrey so your just like a lot of people that want to get a piece of the country out here too on 19 acres similar anybody else be it me if I want to buy 20 acres out there right.

Carson so the Woitaszewski's

Humphrey right

Carson Let me ask you a question Mitch, I don't know yea sure

Humphrey thank you

Carson so the Woitaszewski's came to you and their first order of business was they wanted you to rezone this get it rezoned I think that is what you said earlier right

Humphrey their first order of business was me personally they came to me and said we have this piece of property and we think we want to divide it up into lots and so can you come up with a plan with some lots that would work we had two or three different renditions of this and then as part of the project it would take zoning action, then they dropped it for a number of months right I'm very clear on this so then I thought it was pretty much an issue that was water under the bridge and then they came back to me and picked this up lets zone it. Okay so it's my impression that they want to zone it and pick up a project where they want smaller lots okay Carson okay

Humphrey and I am very clear in stating that then I had a realtor come to me representing them and said peel off the east 10 acres

Carson so the 3 to 4 plans that you did develop what is the smallest the lot was

Humphrey I don't remember between 3 and 4 acres

Lingle so 17 lots

Humphrey No it was not 17 don't worry

Lingle 52 divided by 3 is 17.

Carson, Mitch I appreciate you answering my questions I guess I would point out as I shared earlier to the commission we just don't have enough information I don't think you have enough information and if anything folks I would strongly encourage you to learn what the commission did back in 2008. They were very careful when they rezoned that Ag ground up north to Ag Residential to put some pretty serious restrictions on that and I would ask that you consider doing the same thing if your leaning towards allowing the zoning amendment.

Humphrey I'm going to respond with just one thing

Fisk-Mitch since they are done you need to get at the back end of the line again because you got done and Mr. Carsen asked some questions let the rest of the people get their chance

Humphrey I understand and respect that

Fisk you can answer questions but not ask

Lingle I agree with Mitch in that you can proceed and rezone this to Ag Residential where I disagree is that he said you don't have to put conditions on it at this time and I got 40 acres we are talking essentially 40 acres when you peel off the 10 and I'm allowed 1 residence. What is good for the goose is good for the gander that's all I got to say

Brady- this has been a wildlife discussion we had cranes, turkey, deer. I appreciate the animal

Mitch- I don't know what to say can I sit down or can I respond.

Fisk does anyone have anything else

Shawn Sexson- I don't have a question I have a statement. I guess my problem is we got somebody that doesn't live in the community trying to change the zoning to increase their land value and drive up our taxes we pay enough as it is it gets rezoned it goes from Agriculture to Residential my taxes are high enough and they don't have to suffer the consequences. The piece of land that piece of land should not be rezoned to build a house on. It's a drainage way and our community doesn't need to drive up the taxes and their not here and that is as aggravating to me as anything is they want to change but they won't show their faces to the rest of us

Brady-okay we have had kind of civil discourse tonight and that's good I mean I'm sincere about that I don't think there is much of that, that takes place especially when you get to advanced levels of government. And so I appreciate the fact that people have been civil tonight and

respect each other's opinion I think that is very good Mitch is representing a person and is a professional in his field and he is doing his job and you guys are representing yourselves as landowners and community members and that doesn't mean we have to be at odds or dysfunctional because of that so I do want to congratulate the group for that and we haven't gotten off on an emotional tangent. So is there anyone else that has anything in the body to talk about. Mitch do you have anything else.

Humphrey I would just like to reiterate one or two little things that are kind of important, Gary I represented the zoning when your parcels were zoned so I do understand what the situation was there I do understand why they had the restrictions on the numbers of houses and I do want to say that primarily because of the long driveway that goes back to those houses it was an easement that really doesn't conform to what road standards might be and access to that piece with emergency vehicles so on and so forth I understand that so they said we got this long driveway and we got three people that want to build a home out there let's figure this out so that's what they did okay so that's what they did. So that's how that happened. And I certainly believe that if any owner on the parcel that is zoned AGR or a group of owners wants to come in and approach this commission with a plan for the zoning to change that they certainly have the right and that's respectful to be said okay and I mean that again the Kilgore Road is a county road that as a matter of fact is an arterial road out there it is not probably maintained the best as could be its better than it was and that's another side issue there that needs to be addressed obviously and again the final thing I'll say is we have to zone it for anyone to put a house there and again with that stated if Woitaszewski's sell off 10 acre chunks or 20 acre pieces or whatever the case is then somebody is going to have to come in and before this board again to have a plat approval and final plat approval process with all the studies with that in mind and keep that information on the fore front as you're doing your analysis and that's all I have to say and I thank you for time I appreciate not having to be target on my back tonight as the group has been really cordial in its tense situation. And I respect that Scott was right it has been a good discussion

Brady anyone else that has anything to say I will give the final call here and if we don't have anyone else we will proceed to close the public hearing on this and open this up for comments and discussion concerning this particular request

Brady closed the public hearing at 8:46 P.M.

Brady asks Loye you have something to say

Loye asks is our application a valid application

Fisk- Essentially what you have in front of you is the consideration but with the appropriate zoning district is property is currently zoned Ag and purpose of that district is general Agriculture use to preserve and protect Agriculture production from encroachment by incompatible uses. You have a comprehensive plan that preferences this be made into rural conservation district which is a district that is intended in those areas in which because of limiting environmental characteristics such as scenic status excessive slope, soil conditions high water table or other factors require the regulation development in keeping conditions imposed by the natural environment. And then of course a request to rezone to Ag Residential which whose purpose is for low-density acreage residential development. So in all of this my complex answer is this apparently is the focus. My recommendation to you is to take up what are the options you

have you can deny it, approve it, approve it with restrictions or it can be continued to gather more information and my advice kind of along Mr. Carson statements is maybe you don't have enough information in front of you for two reasons first of all most of the questions you have asked and a lot of the questions brought up by the members of the commission are so conditional and seem to change people's opinions and thoughts seem to change in proposed development and without the owners here their seem to be a lot of unanswered questions that may impact your ability that is up to you whether you want to approve, deny or approve with conditions that the primary reason I would suggest that we continue it deals with Loye's question in that if we have a valid application. What we have functionally now heard is that evidence is that some of this land is may not or by the time it gets to the county board who makes the final actual rezoning action may not be owned by the Woitaszewski's An application for rezoning can be presented by the owner or an agent of the owner if we don't know who the owner is or will be at the time of zoning and we have reason to believe we may not have an application presented by the owner or by somebody of agency for the owner we may have a problem because you may have an invalid application that's all so conditional thou and that's why my instinct is to recommend to you to continue it until we know who owns this property if there is a contract on this property what restrictions what they own what they control at this point in time do the Woitaszewski's thru Mitch Humphrey still have authority to proceed on this rezone with the new contracted owners without anybody here to tell us what that contract is if that contract does firmly exist and if it will be in place if the owner of record will be different by the time this gets to the county board I can't answer your question in about rather or not we have a valid application and so I'm hesitant to give you much advice because I don't know if I have anything to give you advice on and I don't have enough information in front of me today to steer you one direction or another and I really hate to steer you into giving a bunch of conditional approvals condition upon it being owned by these people because we are in a hole world of trouble if we start doing to many condition approvals and conditional recommendations so my recommendation to you is to continue this until we can and rather than be continue it with request that the applicants are present at the next hearing or that we evaluate whether we get time to determine whether or not we have a valid application with the owner of record so maybe to continue until the next month and if the application is no longer valid that it can be eliminated or the new owners can apply and provide Mr. Humphrey with agency and do an application on their behalf as well

Keep do you have information that a contract is in place

Fisk Just what was presented today through Mr. Humphrey, I can't remember the gentlemen's name in the back, and I believe Mr. Brady said there was a sold sign in the yard.

Keep it's a hear say

Wolfe states she seen it

Fisk so the issue is this you guys make a recommendation to the board the board is the one that will actually rezone so the application filter through you but goes through to the county board in the end. The application is done on behalf of the Woitaszewski's through their agent Mitch Humphrey If the Woitaszewski's don't have the right to do what they do by the time this get to the board we would have done all for nothing

Keep and maybe they spent \$115 for nothing. That is what is on the file so it would be in their best interest to say there is not a contract

Fisk I'm not going to get in the point in time and say what's in somebody's best interest and give them legal advice. Everyone does things different things for different reasons but as far as you

guys go so far as you issuing a void recommendation and we don't end up creating a mess that would be my suggestion to you. Its advice do with it what you like but I can't answer the legal question given to me with the information that I have in front of me and so I'd suggest you continue it and get more information.

Brady along the same lines if an action is taken on this request tonight-just say it's a denial they can reapply can't they. Do they need time?

Fisk yes so a denial is a safe harbor without enough information The risk you have with something you guys are less risky for an approval because your just making a recommendation but you could end up approving a change to somebody's land who isn't even here and didn't ask for the change and that's why we require the owner or the agency of the owner of the application because we want to be hesitant about binding somebody who and maybe they know I don't know

Brady I think there is a lot of don't knows

Fisk exactly so that is why I can't really give you a firm answer.

Keep but surely as of August 29, they would have known this was in file

Fisk that was when the application was filed but the actual zoning will not occur until the end but if they decide to sell mid application

Keep yea right but the buyer would have known this was on file to.

Fisk maybe

Keep should have

Brady one thing that comes to my mind as we it wasn't too long ago that we denied a subdivision northwest, north and west of town for ten or eight to ten acre lots for traffic issues basically an emotional traffic issue is what took place out there and a far less difficult situation then what we are dealing with here

Vest At that time didn't they say the owner could sell them in 10 acre lots

Brady 15 acres

Vest 10 or 15 acre whatever he wanted to do just as long as there is not so many houses within that quarter

Brady and their here because of the housing density is going to require a rezoning even for 1 building am I correct

Fisk so they could break off the 10 acre parcels but they will have to rezone them

Brady if someone bought the whole tract and wanted to build one house and asked does it have to be rezoned I'm not sure that would terrible violate anybody's premise here but if it breaks off into fifteen lots then probably not as a warm feeling here.

Brady I guess will just talk Marc do you have anything any opinions to share

Vacek I'm concerned with the lack of information it comes down to a matter of knowing what we have and what to do with it

Wolfe the worst decision we can make is a quick one because when you make a fast decision you often times live to regret that so I think we need more information

Brady Rich

Skelton I think we need more information but with what we do have I would be in favor of denying and letting them reapply once we have some of the other stuff so we are more certain

Brady-Marlin

Heiden I think the same as Loye and Richard I think we need more information but I also think that your talking fifteen people purchasing properties that is like a subdivision okay well we put in a subdivision we look at the roads and I think it's the county that says each house will they

figure there is four people and each one of them people will travel over that road ten times in one day. You think that's a lot but if you start figuring up kids going to school and they got this and that and they put a lot of mileage on okay you got forty five house out there at four to a house you got 160 people then and each one of them drive over that road ten times plus all these other ones that going across them too that you can't stop and I personally think that is one deal is the road and that I be against it and also the drainage I think they all need to come up with an idea of what they can do with the drainage. That's my opinion.

Brady Jeffs

Keep oh he is skipping himself

Jeffs I'm going to have to abstain my mother owns a large chunk of the trailer park that you have been talking about with my step dad together is a beekeeper and an ultra-light flyer so he has a landing strip and what not right there. Everyone knows Calvin so I probably will refrain from a vote

Brady-Randy

Vest I'm kind of in the denial because of like Rich said that property up close to my area was it denied because of too much traffic and it was nowhere near the traffic as what we are talking about down here. So up to me we deny simply because of keeping everything the same in the county because with already forty six houses in that six mile stretch of road I don't care what way you went it wasn't close to that so I would be in favor of a denial

Brady Willie

Keep I'm going to be the odd man out cause what I see this its AGR currently you have more than four houses per quarter we got forty five houses within six miles we have the traffic already and we can say we want no more traffic but it's we already have traffic there we already have AGR we have to many houses for the green colored thing we have there. So it like saying no to this it like saying okay you like one out of four and you decide who gets to stay so to me it's like we have to say yes and we say its fine just for one house and I can't see they would be allowed to do more than that If they went for a water study or a flow study I don't think it would support much more than a handful of houses let alone seventeen. My votes in favor and I don't know if we need to be taking a strong pull vote like this but what I would be in favor of

Brady I don't think we are strong pulling I think we are sharing our feeling on this

Fisk at some point in time someone will have to make either a motion to either deny or motion to approve

Keep my deal is that its AGR you have the land, the high occupancy rate already the traffic going across there it's not going to add to it I mean it will add to it but won't affect anything you've got a bunch already

Brady I don't want to void myself from taking a position on this but there are a couple of things that appear to me as I listened to the discussion. First a little disappointed that the landowners did not show up tonight. And I think their intentions are good, but they couldn't reveal them to Mitch and we can't hold Mitch responsible for what they are doing there he is representing them as requested I think if they really wanted action it bothers me that they could have solved a lot of this if they would have showed up tonight to talk about this and share their concerns. That is a concern I live the same life as you folks do as a high traffic in a rural road and I understand that and I think sometimes and no I'm not a tree hugger but I do think that quality of life is an issue in zoning and maybe not everyone here shares my opinion on that but we all have differences. I do think quality of life is an important part of why we have zoning and I do think that it is something that maybe we don't respect as much as we should so I do think that is a factor It's no

secret that rural Buffalo County is going to have houses I mean here is no doubt about it they are going to keep building its when and where and it's my opinion that hopefully zoning is finding a place and the right place to do it. The thing is I think we need to have some considerations, I like Marlin have consideration about drainage I've seen too much water run on to many people and I don't like that I think if you got road problems like that water just amplifies it and that is a concern for me. I think the fact that we have an undefined intention by the landowner and that is a concern to me but with saying that.

Humphrey can I ask Kari as question

Fisk Sure we'll see if I can answer it or not

Humphrey Is it possible because I'm hearing from various different avenues and that the information is an issue is it what I'm considering is it possible to do one of two things In the Hutchinson issue concerns me a little bit I've never ran across that situation where I'm representing a land owner and all of a sudden they have a contract on the piece of property and the board or body wants to make sure the new owner agrees with it. Usually what I see

Fisk we are not in public hearing so what's the question you got.

Humphrey the question I have is since I don't know and I've never ran across this before and since I don't know and I believe the buyer agrees with the zoning is it possible for me to find a way to demonstrate that in question and is it possible for me to request for a continuance so I can gather the information I don't think Woitaszewski's had any means of disrespecting anybody by not showing up tonight I've represented a lot of zoning actions without having the owner present at that action they trust me as their agent

Fisk-the answer to the question is sure you can go gather information but it won't matter as to the legal advice and yes they can continue it to request the owner be present they or anybody on the board can make a motion to continue it

Humphrey answer the first question again

Fisk your question to me if I understand it right can you go out and find out rather if the guy objects or not yes you can, no I don't think it will mater as to the answer to Loye's question is that is what your digging for.

Fisk you're welcome to go out and seek

Humphrey that answer is more of an opinion but

Fisk yes you can go seek more information you can do what you want

Humphrey right that's the answer to the question so let's just cut to the chase.

Fisk we are not in public hearing anymore we cannot cut to the chase your public hearing time is done.

Humphrey But can I request a continuance

Fisk No members of the board have control over what happens now they can make whatever motions they want but public hearing is closed know

Humphrey but could they ask me the question.

Fisk No public hearing is closed now they are in the discussion phase.

Humphrey I understand

Fisk if you want to make that request it would have to be done during public hearing.

Heiden can he drawl his thing from us

Fisk can he resend the application yes

Heiden and come back

Fisk he can completely rescind the application that anybody can due at any stage prior to final approval

Humphrey I just want to request a continuance

Fisk Mr. Humphrey this is the third time I've answered your question I'll ask them to remove you from the meeting if this continues to be an issue

Humphrey I understand

Fisk okay

Brady everybody has had a chance I think to express an opinion or seek to better inform themselves so I guess that as this board goes usually most of you know that I like to give people an answer I'm not big on I think you came looking for an answer and I look to do that or at least present that possibility so do we have a motion to either approve or deny this application Keep you really don't want a motion to table it then you're saying.

Brady I'm saying that I normally what I read asks for that, I suppose we could ask for that if you want to make such a motion

Keep is that

Fisk anybody can make any motions whoever speaks up first gets to make a motion

Keep is that what you're saying continue the research

Fisk continue the research, continue the hearing,

Brady we can make a motion to table it we can make a motion to approve it, deny it

Keep if it comes back we really won't have open public really because we closed public hearing

Fisk you can move to reopen public hearing you can as part of your motion you can continue to put some conditions on it or continue it for public hearing or continue it for further discussion or you can make request of whatever, say you want more time to gather more information with the request that it's a drainage study or that the owners be present.

Keep you don't make this easy

Fisk you have options I'm not giving you a yes or no I'm giving you all the options are in front of you. Infinite choices

Vest either way if it's a denial or an approval it's the county board. It's forwarded to the county board.

Fisk a denial is a little bit different a denial will not go forward; the approval is not, it's the recommendation for approval

Keep If we table it we will be back next month with more information

Fisk or with whatever date you choose to set you can continue it one meeting, two meetings or you can table it, which would put it out indefinitely lots of options

Brady did somebody have or like to make a motion for something

Motion was made by Keep to table this request. Motion failed No second

Motion was made by Skelton, seconded by Heiden to deny this zoning map amendment from Agricultural to Agricultural Residential

A tract of land being part of the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) and part of the Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4) located in Section Ten (10), and part of Government lot Thirteen (13), part of Government Lot Fourteen (14) and accretions located in Section Three (3), all in Township Eight (8) North, Range Fourteen (14) West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest Corner of the Northeast Quarter of the Northwest Quarter of Section Ten (10) and assuming the South line of the Northeast Quarter of the Northwest Quarter

and South line of the North Half of the Northeast Quarter of Section Ten (10), Township Eight (8) North, Range Fourteen (14) West of the Sixth Principal Meridian, Buffalo County, Nebraska, as bearing S 89°52'00" E and all bearings contained herein are relative thereto; thence N 00°41'48" W and on the West line of the Northeast Quarter of the Northwest Quarter of said Section 10, a distance of 33.0 feet to a point on the North line of a Public Road (Kilgore Road); thence leaving the West line of the Northeast Quarter of the Northwest Quarter of said Section 10 S 89°52'00" E and on the North line of said Public Road (Kilgore Road) a distance of 42.42 feet to the ACTUAL PLACE OF BEGINNING; thence continuing S 89°52'00" E and on the North line of said Public Road (Kilgore Road) a distance of 769.17 feet; thence S 17°47'29" E and continuing on the Northerly line of said Public Road (Kilgore Road) a distance of 8.67 feet; thence N 54°17'53" E and continuing on the Northerly line of said Public Road (Kilgore Road) a distance of 1177.02 feet; thence N 49°47'04" E and continuing on the Northerly line of said Public Road (Kilgore Road) a distance of 501.58 feet; thence N 60°57'23" E and continuing on the Northerly line of said Public Road (Kilgore Road) a distance of 324.97 feet; thence leaving the Northerly line of said Public Road (Kilgore Road) N 01°49'07" W a distance of 200.07 feet to a point on an existing fence line; thence N 86°36'19" W and on said existing fence line a distance of 567.17 feet; thence continuing on said fence line the following courses and distances respectively:

S 73°54'16" W a distance of 236.25 feet; thence
N 74°55'55" W a distance of 107.03 feet; thence
S 86°38'05" W a distance of 229.06 feet; thence
N 86°51'35" W a distance of 174.79 feet; thence
S 80°31'06" W a distance of 204.03 feet; thence
N 22°26'43" W a distance of 113.66 feet; thence
N 73°22'52" W a distance of 296.32 feet; thence
S 82°23'33" W a distance of 96.48 feet; thence
S 63°33'18" W a distance of 301.25 feet; thence
S 81°51'37" W a distance of 167.24 feet; thence

S 01°19'01" W a distance of 24.5 feet to a point on the South line of said Government Lot 14 Located in Section 3 and said point being on the North line of said Northeast Quarter of the Northwest Quarter of said Section 10 and said point also being 87.55 feet Easterly from the Northwest Corner of the Northeast Quarter of the Northwest Quarter of said Section 10; thence leaving said fence line S 01°19'01" W a distance of 1283.95 feet to the place of beginning. Containing 52.31 acres, more or less.

Voting yes were Skelton, Heiden, Keep, Vacek, Wolfe, Vest, Brady

Voting no: none.

Abstain: Jeffs

Absent: None

Motion carried.

Old Business: Moved by Heiden, seconded by Vacek to approve the minutes of the August 16, 2018 as mailed.

Voting yes: Jeffs, Keep, Skelton, Wolfe

Voting no: none.

Abstain: Vest.

Absent: None. Motion carried.

Other items were discussed.

Wozniak also reported on past hearings.

The next meeting of the Planning & Zoning Commission will be held October 18, 2018 at 7:00 P.M. if items come in the next six days.

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