

MINUTES OF PLANNING & ZONING COMMISSION  
MAY 21, 2020  
BUFFALO COUNTY COURTHOUSE via ZOOM  
7:00 P.M.

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

Chairperson Scott Brady opened the meeting at 7:02 P.M. via ZOOM, with a quorum present on May 21, 2020.

In Attendance: Scott Brady, Willie Keep, Randy Vest, Marc Vacek, Francis Biehl, Loye Wolfe, Tammy Jeffs, John Keeney. Absent: None.

Also attending were: Deputy County Attorney Andy Hoffmeister, Zoning Administrator Dennise Daniels, Craig Bennett and Chad Dixon, with Miller & Associates

Deputy County Attorney Andy Hoffmeister stated that due to the current COVID-19 Crisis, this meeting is conducted pursuant to Governor's Executive Order 20-03 to suspend the Open Meetings Act, and allow public meetings to be conducted via ZOOM. Details are listed on the Buffalo County Website. The Open Meetings Act is posted online and in the Buffalo County Board Room if anyone wishes to obtain a copy.

The public forum was opened at 7:04 P.M. The public forum closed at 7:04 P.M.

Code Amendment.

It has been requested to have a code amendment to add Auction House, Automobile Sales & Services, Truck sales & Services to Section 5.52 and to amend Section 5.52 (7) to read: Farm machinery, equipment and implement, sales and service in the C - Commercial District. It was also requested to add Auction Houses and Farm Machinery, implements, and equipment – retail sales & service. Part of the request to allow for alphabetical placement & renumbering appropriately.

Vice-Chairperson Keep asked if tractor sales would be included in farm implement.

Deputy County Attorney Andrew Hoffmeister answered that it is more defined by farm machinery, anything that can be hitched to back of tractor. Buffalo County wants to make farm equipment and services the same in both Industrial & Commercial Districts and for them to coexist. Perhaps adding a mixed Commercial/Industrial District could be created in a future Comprehensive Plan rewrite. It is the intent for Buffalo County to stop special uses in AG, when you can allow it in Commercial or Industrial.

Mr. Biehl asked if livestock sales were included.

Zoning Administrator Daniels stated that it is a Permitted Special Use, under Ag District Section 5.14 (6).

Deputy County Attorney Andrew Hoffmeister affirmed parking and traffic could be a concern for livestock sales. It may not be beneficial to add to the Commercial District.

Chairperson Brady stated that animal wastes could be a future issue, with larger facilities.

Motion was made by Vest, seconded by Wolfe to approve sending the Code Amendment, as presented, to the Buffalo County Board of Commissioners:

Voting “Aye”: were Keep, Vest, Biehl, Keeney, Vacek, Wolfe, & Brady.

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

Will be scheduled with the Buffalo County Board of Commissioners on June 9, 2020 at 9:15am.

### **Zoning Amendment/Preliminary Plat**

Presented by Craig Bennett & Chad Dixon, of Miller & Associates. The Application for a Zoning Map Amendment is from Chad Dixon, a licensed surveyor, on behalf of The Cruise Brothers, LLC, for lands located in a part of the Northwest Quarter of Section 36, Township 11 North, Range 16 West of the 6<sup>th</sup> Principal Meridian, Buffalo County, Nebraska. The Cruise Brothers, LLC, are seeking a Zoning Map Amendment. The applicant is requesting a rezone of proposed preliminary plat, “The Greens at Prairie Hills First”, Block 1, Lots 1 & 2 and Block 2, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, & 10 from AG – Agriculture to Agricultural-Residential. It is also requesting a rezone of Block 2, Lot 11 & Block 4, Lots 3, 6, & 7 from AG – Agriculture to C - Commercial.

Mr. Bennett presented rezoning information, while sharing his screen, showing the zoning and aerial maps of the proposed preliminary plat. It is currently zoned AG – Agriculture, and bordered by AG - Agriculture. Currently a golf course, but the north nine holes of the Prairie Hills Golf, will be developed into this subdivision.

The original clubhouse is included in the proposed preliminary plat, but not the current clubhouse. It is owned by someone else.

The Future Land Use Map was reviewed by The Commission, and the future use of this area is showing as AGR - Residential.

Mr. Bennett reviewed the Zoning Exhibit, which shows the lots that will be rezoned from AG – Agriculture to AGR - Residential and AG – Agriculture to C – Commercial. The clubhouse parcel is one that will be rezoned to C – Commercial. The developer/owner has considered putting office building on one of the C – Commercial lots abutting the highway. All of the lots located north of the proposed Prairie Hills Road will be part of the final plat. The lots south of Prairie Hills Road, not zoned Commercial, will request an AGR – Agricultural Residential rezone, when that plat is filed.

The reason that the three lots south of Prairie Hills Road are zoned Commercial, is existing use for clubhouse and potential for office building. If the developer only asks for the clubhouse to be Commercial, then there could be a potential for “Spot Zoning”. The developer wants to allow for nice transition for the Commercial use.

Mr. Bennett reviewed the legal descriptions of each of the four lots that are proposed to be rezoned from AG - Agriculture to C – Commercial, the letter in regards to Block Length Regulations & Road Regulations for cul-de-sac length, and the Vicinity Map. The rest of the plat will not be included in the first final plat due to potential development and cash flow. He also discussed general design and accesses as shown on the preliminary plat. He highlighted regulatory contours, easements, setbacks, etc.

All Lots are 3+ Acres and the total subdivision is 97 acres. The developer allowed for safe accesses via Highway 10 and 220<sup>th</sup> Road.

Developer contacted state of Nebraska for connectivity & approval into subdivision. State will provide open driveway access, depending on timing. This access allows for visibility on Highway 10 and allows clear exits. The new road regulations request 125’ paving apron from the paved road; it is the intent of the developer to have that completed with the highway project. The proposed width of the apron will exceed the current regulations of 25’; it will be 40’. Deputy County Attorney Hoffmeister clarified aproning regulations. Mr. Bennett did representation drawing of new apron and indicated the allowance for the perpendicular drive.

Chairperson Brady asked if the roads were going to be gravel and asked if the county eventually take on the maintenance of these roads.

Mr. Bennett explained that they will be gravel and it is the intent of the developer to have the county maintain the roads. He, then, discussed the road drawings images and ensured the RL-2 Standards will be met and 125’ apron will be provided. Prairie Hills Road’s slopes do not exceed 7% slope. Some areas of the proposed roads needed fill. However, they all have good visibility and all roads will be RL-2 Compliant. The developer tried to ensure easier grading for the county. Mr. Dixon also stated said he consulted with John Maul, the County Highway Superintendent, for 220<sup>th</sup> Road entry.

Deputy County Attorney Andrew Hoffmeister stated that the new developer would need a Block Length Waiver, and a recommendation for no accessibility to 220<sup>th</sup> from the furthest northern lots. He also discussed the complexity of road designs and why some county regulations were passed.

Mr. Bennett stated that all the lots that back 220<sup>th</sup> have local road interior access and will not have access to 220<sup>th</sup> due to unsafe conditions. He also noted the Storm Water Retention, Hydrology Studies, and the calculations, within the packet. He also showed a snapshot of the Final Plat for The Greens at Prairie Hills. It shows that everything north of Prairie Hills Road will be part of Final Plat, along with Block 1, in northeast corner.

Deputy County Attorney Andrew Hoffmeister reminded Mr. Bennett of the new regulations regarding postal facilities. Mr. Bennett stated that those have not been addressed yet, but the developer was considering putting them at the Prairie Hills Road entrance off Highway 10, similarly to the subdivision to the south of the proposed preliminary plat.

Chairperson Brady expressed concerns regarding the C - Commercial Zoning along highway. He wanted to know what the intent was for that area.

Mr. Bennett referred to the Zoning Exhibit. One of the four Commercially-Zoned areas is for the current clubhouse. The developer wished to follow with the existing land use and lining up with use. The developer did not want non-conforming buildings or uses in this area. It was primarily designed to avoid "spot zoning" and to make it more homogeneous. It was a consideration to allow an office building on the Commercial lot north of Prairie Hills Road. However, in the end, most of them will probably be single-family homes.

Deputy County Attorney Andrew Hoffmeister and Mr. Vest highlighted several commercial businesses along Highway 10.

Chairperson Brady re-requested the intent of Commercial Zoning. He asked if the developer had planned erecting a new clubhouse. Mr. Bennett stated that the original clubhouse is being converted back into clubhouse.

Chairperson Brady expressed concern regarding the other two Commercially-Zoned lots and Mr. Bennett said that the intentions are for it to be residential.

Chairperson Brady also expressed concerns in regards to the Commercial use and the high volume of traffic along Highway 10. Mr. Bennett assured the members that the Commercial use of those two lots is not the intent. It is just to create a homogenous area of Commercial zoning.

Vice-Chairperson Keep asked how many acres left as AG - Agriculture. Mr. Dixon stated that there would be about 100 acres left.

Vice-Chairperson Keep asked why the developer didn't make it all AGR – Agricultural Residential. Mr. Dixon stated that it was to allow the rest of the golf course to function and for assessment purposes. Discussion of how the property is taxed and assessed.

Deputy County Attorney Andrew Hoffmeister addressed the 125' apron and the Road Maintenance Contract and whether the road will be done when the final plat is filed; Buffalo

County may have to add it as a provision in the contract. Mr. Bennett stated that hopefully the 125' apron will be done before. It is at-risk road construction.

Deputy County Attorney Andrew Hoffmeister reiterated that the Board of Commissioners shouldn't back out of a preliminary plat. He also highlighted some of the new Road Regulations.

Chairperson Brady addressed Deputy County Attorney Andrew Hoffmeister regarding the concerns, on behalf of the Planning and Zoning Commission, of the Road Regulations that were passed and what had been recommended by The Commission. The growing road maintenance and volume of traffic is a huge concern. Discussion regarding the increased traffic flow along county roads, and the cost to maintain the roads.

Deputy County Attorney Andrew Hoffmeister asked if Highway 10 would continue to be a two or a four-lane road. Mr. Dixon stated that there would continue to be two lanes.

Chairperson Brady and Vice-Chairperson Keep asked how the proposed Commercial Zoning would affect the traffic and road wear and tear. Ms. Wolfe asked if there would be a turning lane. Mr. Bennett stated that there were be standard turns along the mile section, no deceleration lane.

Chairperson Brady addressed Deputy County Attorney Andrew Hoffmeister regarding the Road Maintenance Contract. Deputy County Attorney Andrew Hoffmeister discussed some of the primary purposes. Chairperson Brady expressed the concerns regarding what had been passed for the Road Regulations, versus what was discussed in Planning & Zoning Commission.

**AG - Agriculture to C- Commercial (4 tracts, as presented)**

Motion was made by Keep, seconded by Jeffs to approve sending four tracts, as presented, for rezone from AG – Agriculture to C – Commercial to the Buffalo County Board of Commissioners:

Voting “Aye”: were Keep, Vest, Biehl, Keeney, Vacek, Wolfe, and Jeffs.

Voting “Nay”: Brady.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

**AG – Agriculture to AGR – Agricultural Residential**

Motion was made by Vest, seconded by Biehl to approve sending rezone from AG – Agriculture to AGR – Agricultural Residential, to the Buffalo County Board of Commissioners:

Voting “Aye”: were Vest, Biehl, Keeney, Vacek, Wolfe, Jeffs, Keep, and Brady.

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

**“The Greens at Prairie Hills First” Preliminary Plat**

Motion was made by Wolfe, seconded by Biehl to approve sending preliminary plat, with the following suggestions: Block Length Waiver (due to configuration of street, it will exceed 1,320 feet) and limited access to 220<sup>th</sup>, to the Buffalo County Board of Commissioners:

Vice-Chairperson Keep restated his concern for the maintenance of the roads. Ms. Wolfe stated that she liked the design, but also had concerns for the road maintenance. Easements were recommended. Deputy County Attorney Andrew Hoffmeister stated easements were not the answer, and would elaborate further.

Voting “Aye”: were Biehl, Keeney, Vacek, Wolfe, Jeffs, Keep, & Vest.

Voting “Nay”: None.

Abstain: Brady.

Absent: None.

Motion carried.

No opposition to the change.

Mr. Bennett thanked The Commission for their time and efforts.

Both Map Amendments and the Preliminary Plat will be scheduled with the Buffalo County Board of Commissioners on June 9, 2020 at 9:15am.

**Minutes**

Motion was made by Vacek, seconded by Biehl to approve the minutes of the February 20, 2020 as presented.

Voting yes: Vest, Wolfe, Keeney, Jeffs, Biehl, Keep, Vacek, & Brady.

Voting no: None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

**New Business, Correspondence & Other Business**

**ETJ Subdivisions Correspondences**

Deputy County Attorney Andrew Hoffmeister stated that it is state law, that surrounding villages must provide any subdivisions, within the extra-territorial districts, to the county for recommendation within 30 days. The recommendations are not binding. The subdivisions that were discussed were: Blessing Premier Subdivision, Isaac Acres, Jurgen's River Second Subdivision, and Shier's Estates Third. They abut public roads, and it doesn't appear that there will be additional roads for maintenance. The Planning and Zoning Commission need to provide a recommendation. When it's development-type situation, it is usually a request for road maintenance.

Discussion regarding the agenda subdivisions: accesses, lot volumes, locations, and the floodplain.

**Jurgen's River Second Subdivision:**

Motion was made by Keep, seconded by Vest to pass Jurgen's River Second Subdivision on with a favorable recommendation:

Voting "Aye": were Wolfe, Brady, Biehl, Jeffs, Keeney, Keep, Vacek, & Vest.

Voting "Nay": None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

**Shier's Estates Third:**

Motion was made by Vacek, seconded by Jeffs to pass Shier's Estates Third on with a favorable recommendation:

Voting "Aye": were Biehl, Jeffs, Keeney, Keep, Vacek, Vest, Wolfe, & Brady.

Voting "Nay": None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

**Blessing Premier Subdivision:**

Motion was made by Biehl, seconded by Wolfe to pass Blessing Premier Subdivision on with a favorable recommendation:

Voting "Aye": were Jeffs, Keeney, Keep, Vacek, Vest, Wolfe, & Brady.

Voting "Nay": None.

Abstain: None.

Absent: None.  
Motion carried.

No opposition to the change.

**Isaac Acres:**

Motion was made by Jeffs, seconded by Vest to pass Isaac Acres on with a favorable recommendation:

Voting “Aye”: were Jeffs, Keeney, Keep, Vacek, Vest, Wolfe, Brady, & Biehl.

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

The 2019 Buffalo County Zoning Report was reviewed and The Commission valued the information.

Deputy County Attorney Andrew Hoffmeister reminded The Commission that the ETJ Subdivisions are located outside of Municipality Jurisdiction.

**Report on Previous Hearings: Subdivision Regulations**

Deputy County Attorney Andrew Hoffmeister discussed lot frontages and why easements, from the county’s perspective, are discouraged and why private roads are not great planning tools, either. Publicly-dedicated roads are the best way to go for 911, ownership, public use, and planning.

The aprons were a good idea because of dirt relocation to the paved roads and acceleration.

The maintenance contract was primarily to monitor that care is taken into the roads and regular maintenance was being performed.

Buffalo is the only county that requires the road be built before the land can be subdivided.

Another option the Board of Commissioners considered to reduce county road maintenance costs were to require a reduction in lot size to ½ acre. They wanted to allow more spread out lots.

The Board of Commissioners also suggested decreasing AGR – Agricultural Residential district down, to discourage growth.

As far as why the Board approved the postal facilities, it allows the post office to deliver more quickly and encourage the neighbors to interact. Rural subdivisions provide an “increased public burden, but they also are a planned burden”.

Buffalo County has an excellent presentation of roads & communities, compared to some of the counties around us, and has a cost associated with it. Tax bases do help pay for these nice roads we have.

Easements are best used for farm-type situations. They can cause disputes about maintenance, care, and responsibility. Public responsibilities and disputes, then, need to be sorted through by Buffalo County.

The new regulations are not perfect, but a start. Buffalo County could start encouraging more subdivisions closer to town within their jurisdictions.

Another consideration of the Board was the number of roads. Deputy County Attorney Andrew Hoffmeister discussed the concern of the Board for all the roads and if they were needed.

Chairperson Brady expressed concern that perhaps something else needs to be considered other than the tax dollars Buffalo County brings in.

Deputy County Attorney Andrew Hoffmeister stated that a good community that provides good amenities does cost money. Planning and development is good, so we don't have an excess of administrative subdivisions. Perhaps a maximum lot width, would be a consideration, with a minimum access to the lot.

Hall County has many paved roads, however it is a lot flatter than Buffalo and some of those roads were paved during the war. Buffalo County topography is a lot different, and paving may not be the answer here, either. The Commissioners do not want to cut the AGR - Agricultural Residential District down, so those small communities will still have people to generate income.

Deputy County Attorney Andrew Hoffmeister reminded The Commission that the Comprehensive Plan is up for a rewrite next year. Perhaps the county should encourage all development next to paved roads.

Deputy County Attorney Andrew Hoffmeister asked The Commission what kind of comments they had in regards to the Commercial and Industrial Districts.

Mr. Vacek stated that he felt the code amendments were straightforward. He addressed The Commission and stated that he felt that a lot of time was spent on it, and didn't receive any support. He supports the growth, but there are some concerns about how soon citizens have their roads maintained.

Deputy County Attorney Andrew Hoffmeister reminded The Commission that an employee shortage at the highway department is a factor in Buffalo County's Road Maintenance. The growth is relatively regulated and maybe the city and the county need to work together in future planning for development.

Another option is to prepare a future land use for the roads. Buffalo County really needs to encourage growth in the extra-territorial jurisdictions. When land is developed in the extra-territorial jurisdictions, then sewer, sanitation, police, etc. are all provided. Perhaps the Comprehensive Plan should encourage people to build in 'already designated' districts and be conservative with rezoning.

Chairperson Brady asked if the quality of life is being improved for the citizens of Buffalo County.

Deputy County Attorney Andrew Hoffmeister stated that there are not a lot of starter-type homes. However, people are moving out of their “starter homes” to the country to open up that market to new homeowners that can’t afford to live outside of Kearney.

Chairperson Brady stated that he believes all the actions the Planning and Zoning Commission have taken just added more tax money, and the county ends up spending more money. He voiced concern for taxes and assessment going up. He stated that the quality of life for rural residents has reduced due to traffic issues, gravel trucks, and the volume of traffic.

Mr. Biehl stated that he believes there is an issue with overdevelopment and affordable housing is not affordable.

Deputy County Attorney Andrew Hoffmeister stated that perhaps the county should require a larger minimum lot size. He stated that a Commissioner expressed concerns that it wouldn’t matter because people have an insatiable appetite for land and will pay significant amounts of money to acquire it.

He also declared that smaller lots could be more affordable. Too dense of housing wouldn’t work either, due to the risk of fire breakouts. Firefighting is a concern for rural development, as there are no local wells to put it out.

Deputy County Attorney Andrew Hoffmeister highlighted Sanitation Improvement Districts. They could potentially be cheaper for the county. They are also smaller lots and the roads are not maintained by the county. Grand Island has had good luck with these, but Kearney doesn’t have a lot of them. City of Kearney has some city standard issues with this area.

Vice-Chairperson Keep asked if the Planning and Zoning Commission should consider Sanitization Improvement Districts in the future.

Deputy County Attorney Andrew Hoffmeister explained that it could be another option. The county would have to pay for paving up to it. Paving is expensive, but it will pay for itself in time.

Next meeting June 18, 2020.

Meeting adjourned at 9:55 p.m.