

MINUTES OF PLANNING & ZONING COMMISSION
JANUARY 21, 2021
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.

Chairperson Scott Brady opened the meeting at 7:00 p.m. via ZOOM, with a quorum present on January 21, 2021.

Chairperson Brady announced that, after the resignation of member, John Keeney, the Board of Commissioners appointed Kurt Schmidt, to the Planning and Zoning Commission, at the regular December 8, 2020, Board of Commissioners' meeting.

In Attendance: Scott Brady, Willie Keep, Randy Vest, Francis Biehl, Loye Wolfe, Tammy Jeffs, Marc Vacek & Kurt Schmidt.

Quorum was met.

Also attending were: Deputy County Attorney Andrew Hoffmeister, Zoning Administrator Dennise Daniels, and several members of the public.

Zoning Administrator Daniels began the Re-Organizational Meeting of Officers. Zoning Administrator Daniels called for nominations for Chairperson. A motion was made by Vest, seconded by Keep, to nominate Scott Brady. No additional nominations were made. A motion was made by Vacek, seconded by Wolfe, to cease nominations.

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

Voting "Nay":

None. Abstain: None.

Absent: None.

Motion carried. Nominations were ceased.

Zoning Administrator Daniels announced roll call to cast a unanimous ballot for Scott Brady as Chairperson.

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

Voting "Nay": None.

Abstain: Brady.

Absent: None.

Motion carried.

Chairperson Brady called for nominations for Vice-Chairperson. A nomination was made by Vacek, seconded by Biehl, to nominate Willie Keep for Vice-Chairperson. No additional nominations were made. A motion was made by Vest, seconded by Jeffs, to cease nominations.

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

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

Nominations were ceased.

Chairperson Brady requested a motion to cast a unanimous ballot for Willie Keep as Vice-Chairperson. A motion made by Biehl, seconded by Vest.

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

Voting “Nay”: None.

Abstain: Keep.

Absent: None.

Motion carried.

Chairperson Brady called for nominations for Secretary. A nomination was made by Vacek, seconded by Keep, to nominate Loye Wolfe for secretary. No additional nominations were made. A motion was made by Vacek, seconded by Schmidt, to cease nominations.

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

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

Nominations were ceased.

Chairperson Brady requested a motion to cast a unanimous ballot for Loye Wolfe as Secretary. A motion made by Jeffs, seconded by Biehl.

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

Voting “Nay”: None.

Abstain: Wolfe.

Absent: None.

Motion carried.

Chairperson Brady announced The Open Meetings Act and The Governor’s Executive Order to suspend the Open Meetings Act, to allow public meetings to be conducted via ZOOM. Agendas were available if anyone wished to have one.

The public forum was opened at 7:11 p.m. The public forum closed at 7:11 p.m.

Zoning Map Amendment: Robert & Brenda Bendfeldt

Chairperson Brady announced item 6(a), and opened the public hearing at 7:12 p.m. for a Zoning Map Amendment Application. The purpose of the hearing is to hear public comments on an Application for Zoning Map Amendment, filed by Trenton Snow, licensed land surveyor, on behalf of Robert & Brenda Bendfeldt, for property described as a tract of land located in part of the North Half of the Northwest Quarter & accretions, Section 13, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska. The applicant has requested to rezone approximately 7.16 acres from AG – Agriculture to AGR – Agricultural Residential.

Trenton Snow, Licensed Land Surveyor, introduced himself as the agent to Robert & Brenda Bendfeldt. He stated that the proposed tract is owned by the Bendfeldts’, and the entire property that is owned, will be rezoned. There are currently two houses located on the property and is situated along Kilgore Road and west of Highway 10.

Robert and Brenda Bendfeldt introduced themselves and Mr. Bendfeldt provided a history of this parcel of land. He stated that the property was previously owned by his in-laws and it was purchased from their estates approximately three years ago. Their son currently lives in one house and the other house is currently being rented to another couple. He stated that they intend to subdivide the property to, perhaps, sell in future. At this point, they currently have no plans for the property, except to have it subdivided.

Deputy County Attorney Hoffmeister asked if the Bendfeldts intend to construct additional housing on this property. The Bendfeldts stated that they do not. Deputy County Attorney Hoffmeister stated that each proposed lot is already three acres and each has a house.

Deputy County Attorney Hoffmeister addressed Mr. Snow and asked if Kilgore Road was a 66-foot road. Mr. Snow stated that he believed it was a 66-foot road and explained that it was not a dedicated road, but a deeded road. He went on to say that if the property does become subdivided, the right-of-way that will be dedicated to the county is 40 feet.

Deputy County Attorney Hoffmeister asked if this property was located within 3/8 of a mile to paved road, on South Highway 10. Mr. Snow confirmed and went on to say that nothing

additional will be changed. Deputy County Attorney Hoffmeister stated that ownership may change, but density will not. Mr. Snow confirmed and explained that the lots are already developed and there will be no additional development.

Mr. Snow requested inquiries of The Commission. Chairperson Brady confirmed that the owners intend to rezone the property (7.16 acres) as part of a change in ownership and then subdivide the tracts into two lots. Mr. Snow stated that the owners wish to subdivide the property, but do not intend to change ownership at this time. The subdivision is primarily to sell a portion of the property to their son, if he wants to purchase the house that he currently resides in. Mr. Snow explained that the owners intend to rezone the property from Agriculture (AG) to Agricultural – Residential (AGR) because the existing two houses are in too close proximity for the administrative subdivision. Deputy County Attorney Hoffmeister explained that if the owners cease to be related, then one of the houses, if one gets destroyed, the other cannot be rebuilt. Mr. Bendfeldt stated he understood and he had no concerns.

Chairperson Brady stated that, based on the presentation, he didn't believe that there would be any significant changes to this property, other than, perhaps, an ownership change. Mr. Bendfeldt and Mr. Snow both confirmed. Mr. Snow stated that traffic, density, and the look of the property would not change.

Chairperson Brady addressed the public requesting any objections to the rezone. Zoning Administrator Daniels stated she received no correspondences regarding this rezone.

Chairperson Brady said that he has no concerns regarding the rezone and closed the public hearing at 7:19 p.m. He, then, addressed The Commission, and asked if anyone on The Commission would like to provide any additional comments or concerns. Vice-Chairperson Keep stated that he had no concerns with this project.

Motion was made to pass the Zoning Map Amendment for Robert & Brenda Bendfeldt to the Board of Commissioners with a favorable recommendation, moved by Vest, seconded by Biehl.

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

Voting "Nay": None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

Zoning Map Amendment: Steven R, Judi A. & Joshua R. Martin

Chairperson Brady announced item 6(b), and opened the public hearing at 7:22 p.m. for a Zoning Map Amendment Application, filed by Mitch Humphrey, licensed land surveyor, on behalf of Steven R. Martin, Judi A. Martin, & Joshua R. Martin, for property described as a tract of land located in part of the Southeast Quarter of the Southeast Quarter of Section 8, Township 9 North, Range 18 West of the Sixth Principal Meridian, Buffalo County, Nebraska. The applicant has

requested to rezone approximately 3.25 acres, of which approximately 0.17 acres are presently being used for road purposes on the South side, from Agriculture (AG) to Agricultural – Residential (AGR).

Mitch Humphrey, licensed land surveyor, introduced himself as the agent on behalf of Steven R. Martin, Judi A. Martin, & Joshua R. Martin. Colleen Martin, wife of Joshua R. Martin, is in attendance. He stated the applicants wish to rezone the property as stated, situated Highway 183 and old Highway 183, now named Turkey Creek Road. The Martin Family currently owns a large acreage north of Elm Creek, approximately three miles. Zoning Administrator Daniels shared the GIS mapping of the site, for the public and The Commission. Mr. Humphrey stated that Steve and Judi Martin currently reside in the parcel southwesterly of the proposed rezone. Joshua & Colleen currently reside in the area that is the proposed rezone. Joshua would like to split off a small portion from the larger tract that he currently owns with his parents. He would eventually, rebuild a new house and remove the existing residence. There will be no increase in density.

Mr. Humphrey referenced Buffalo County Code regarding the construction of a new residence, within the designated perimeter of a livestock confinement operation, M&M Feeders. He stated that the owners/operators of M&M Feeders have submitted a letter of acceptance for the rezone and new residence. Since the applicant intends to construct a new residence and there is no intent to create a development, the owner/operator of the livestock confinement operation have no concerns for this application.

Mr. Humphrey stated that the applicants wish to rezone the property, due to Steve & Judi Martin's residence and Josh & Colleen Martin's residence being within too close proximity for the Agriculture (AG) District codes.

Mr. Humphrey stated that he has submitted the documentation for the administrative subdivision to follow the rezone at the Buffalo County Commissioners' Meeting, should the rezone be favorably recommended by The Commission. Mr. Humphrey asked if Zoning Administrator Daniels had received any opposition in regards to the rezone. Zoning Administrator Daniels confirmed that she had not received any opposition.

Deputy County Attorney Hoffmeister stated that he would like to have a couple things noted to The Commission and asked if there was any information available regarding the number of head for M&M Feeders. Zoning Administrator Daniels referenced her list of facilities and stated that it was last recorded at 3,000 head.

Deputy County Attorney Hoffmeister referenced the Future Land Use Map, and said that the Comprehensive Plan does not designate this area of Buffalo County as a residential area. He explored several areas near this proposed rezone that have already been rezoned, due to an increase in density. He recommended The Commission consider rezoning this area to Agricultural – Residential (AGR) in the Comprehensive Plan renewal. He explained that the letter from the livestock operation is required to protect the owner/operator from any future development around it, as well as the homeowners from the expansion of a livestock operation.

He stated the letter is helpful for The Commission's review, because a house within the livestock operation's designated perimeter, cannot be built without the letter of acceptance from the facility. Additionally, in the Agriculture (AG) District, houses must be spaced 1,000 feet apart and only 4 houses per quarter section are allowed.

Deputy County Attorney described that this application would not increase density and should be considered, due to the density of this area and the good accesses.

Deputy County Attorney Hoffmeister asked Zoning Administrator Daniels when the rezone would be heard by The Board of Commissioners. Zoning Administrator Daniels stated it would go in front of the Board on February 9, 2021. Deputy County Attorney Hoffmeister clarified for The Commission that the owners need the rezone, to build a new house, and eliminate any future concerns regarding financing for any interested parties.

Chairperson Brady confirmed with Deputy County Attorney Hoffmeister that there would be no significant changes. Deputy County Attorney Hoffmeister confirmed and stated that this area already has significant density. Discussion occurred regarding the increasing density of the area north of Elm Creek.

Chairperson Brady asked if there were any other concerns. He went on to say that if the livestock operation has submitted a letter of acceptance, then he has no concerns with the rezone. Chairperson Brady asked Mr. Humphrey if it is the applicants' intent is to remain there permanently. Mr. Humphrey confirmed.

Chairperson again addressed the public to see if there were any questions or concerns.

Chairperson Brady closed the hearing at 7:36 p.m.

Chairperson Brady addressed The Commission and asked if they had any additional thoughts. Mr. Biehl spoke that the access is excellent and the livestock operation has submitted documentation accepting the applicants' intent. Secretary Wolfe also stated that she appreciated the letter that the owner/operator of the livestock operation provided to The Commission and appreciated the Martins being transparent about their intent.

Motion was made to pass the Zoning Map Amendment for Steven R, Judi A. & Joshua R. Martin to the Board of Commissioners with a favorable recommendation, moved by Vice-Chairperson Keep, seconded by Mr. Vacek.

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

Voting "Nay": None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

Code Amendment #1:

Chairperson Brady announced part of item 6(c), opened a public hearing at 7:40 p.m. on Code Amendments of Zoning Regulations regarding areas of construction and exemptions of Accessory Buildings under Section 8.1 AND adding Accessory Use by Special Use Permit, in the Agriculture (AG) and Agricultural – Residential (AGR) Districts, under Sections 5.14 and 5.34, when specific provisions as to location and size do not apply.

The first proposed amendment would be for Zoning Regulations, Section 8.1 to change language in the following sentence: “Accessory buildings and structures shall not occupy more than thirty percent of the ~~required~~ area of the side and rear yard”.

Chairperson Brady asked Deputy County Attorney Hoffmeister to address The Commission regarding this amendment. Deputy County Attorney Hoffmeister stated that Jason Wozniak, former Zoning Administrator for Buffalo County, approached The Board of Commissioners regarding some concerns about parts of the code. Deputy County Attorney Hoffmeister stated, in February 2020, there was a code amendment that went in front of The Board for garages. Garages, which were not fully defined, were supposed to have been kept 10 feet back from the right-of-way. Since that has been removed, several people have applied for accessory permits and it was noticed that they are not allowed to be constructed anywhere, but in the rear yard. Other counties, such as Hall, Dawson, Kearney Counties’ codes reviewed and none of these counties allow accessory structures in the front yard. Commissioner Loeffelholz, after hearing from several constituents, approached Deputy County Attorney Hoffmeister regarding the concern for allowing accessory structures in the other areas. He stated that corner lots rarely have “rear yards”, and to change the code to allow for situations like this. He stated that it could be beneficial to allow construction in the side yard and front yard via Special Use Permit, if applicable setbacks apply. His intent was to allow the neighbors to come forth with their opinions regarding structures in the front yard.

Deputy County Attorney Hoffmeister addressed a member of the public, Kevin Duncan. He referenced a parcel that Mr. Duncan had applied for via Zoning Permit, and was denied due to the location of the structure not being in the rear yard. He stated that one neighbor came in front of the Board of Adjustment and stated their opinions on the project. The neighbors expressed concern that they didn’t want accessory buildings in the front yard and would potentially take away from the house. Deputy County Attorney Hoffmeister reviewed Seward County’s allowance of front yard accessory structures.

Deputy County Attorney Hoffmeister referenced another Board of Adjustment hearing regarding an individual, who wanted to put up a building in the front yard. He stated that, in this case, it was allowed, because the structure was small and would not be affixed.

Deputy County Attorney Hoffmeister asked Jason Wozniak and Kevin Duncan to comment on the proposed amendments. Jason Wozniak stated that he believes it needs to be reviewed because setbacks would already be met. He stated that several houses in Buffalo County already have them in side yards and could potentially increase the value of property due to a high-end

accessory structure placed next to it. Deputy County Attorney Hoffmeister stated he agreed, especially in corner lot situations.

He asked Kevin Duncan to review a parcel, in which he was looking to erect a building on parcel 580157065. Mr. Duncan stated that this particular parcel had a ravine down the center of the parcel, so construction of an accessory building in the rear yard was not feasible. Discussion occurred regarding this proposed property's factors.

Mr. Duncan and Mr. Wozniak asked Deputy County Attorney Hoffmeister to clarify the location of the front yard. Zoning Administrator Daniels drew out the location on the front yard using GIS imagery to assist Deputy County Attorney Hoffmeister's definition. Discussion occurred regarding what could be considered as a "front yard".

Jason Wozniak asked Deputy County Attorney Hoffmeister if it is allowed to construct an accessory building in the Agricultural – Residential (AGR) District, without a house. Deputy County Attorney Hoffmeister stated that they cannot, because it is an accessory use without a principal use. He stated that an accessory building should accompany a house. He reviewed factors such as abandonment and commercial uses that could occur when accessory uses are allowed without a principal use. However, if a person wanted to construct an accessory building to live in while they construct the principal structure, that is up to the discretion of the Zoning Administrator.

Kevin Duncan addressed The Commission and stated that if the structure would have been constructed within the City of Kearney's jurisdiction, it would be allowed. He referenced the Board of Adjustment hearing from Deputy County Attorney Hoffmeister's previous statement, and explained that the neighbors were concerned the building would be placed a different direction, to block the views. Deputy County Attorney Hoffmeister stated that a Special Use Permit would be a good alternative to allow it.

Chairperson Brady stated that the city and the county are different and city regulations should not always be considered when taking into account amendments of county regulations. He recommended using Special Use Permits in all other situations, other than rear yard. Deputy County Attorney Hoffmeister stated that he believes we should loosen the codes a little.

Deputy County Attorney Hoffmeister presented another amendment regarding the exemption of buildings less than 120 square feet. Under the proposed amendment, these smaller structures will be allowed without a Zoning Permit but must meet minimum setbacks. He said that he welcomes any recommendation from The Commission.

Chairperson Brady asked if other communities around Kearney have similar codes as the City of Kearney. Deputy County Attorney Hoffmeister said he was unsure about the smaller communities. He said, that with the recent inquiries regarding front yards, and the variances with The Board of Adjustment, the codes may need to be reviewed. He stated that Special Use Permits for front yard is not perfect and can be difficult to enforce.

Mr. Duncan reviewed other properties across Buffalo County that have existing accessory structures in the front and sides yards. Discussion occurred regarding why it has been allowed to occur.

Deputy County Attorney stated that side and rear yards would not be objectionable. He stated that he preferred not to use Special Use Permits, but isn't sure how else to handle the issue of front-yard building. He stated that this would be an excellent opportunity for public review.

Mr. Wozniak asked how the 30% density of buildings would be calculated. Deputy County Attorney reviewed the process. Mr. Wozniak went on to reference several parcels that had houses built towards the back of the property line, due to topography and views. He stated that it would be difficult to construct an accessory structure in the rear yard with houses situated like parcels 580721332 & 580721331. Vice-Chairperson Keep agreed. Deputy County Attorney reiterated that a building in the front yard would be allowable, just through Special Use Permitting. He stated that Buffalo County should have a more consistent rule for accessory uses in the front yard.

Mr. Wozniak, then, requested Zoning Administrator Daniels move the GIS image to where there are a significant amount of accessory structures, along Cottonmill & 85th Road. Mr. Wozniak stated that he didn't believe those structures changed the characteristics of the neighborhood. He stated that property owners want accessory buildings for their RVs, boats, atvs, etc. Deputy County Attorney stated that he understood, but the principal use of this area is residential.

Mr. Wozniak asked Zoning Administrator Daniels to move the GIS image to 85th Deer Country Estates off 85th & Cottonmill Road. Several of these parcels were reviewed.

Chairperson Brady asked Zoning Administrator Daniels how many requests she receives for front yard construction. Zoning Administrator Daniels states that she gets up to 3-5 requests a week. Deputy County Attorney Hoffmeister expressed concern on why this issue must be addressed. He stated that it is incredibly important that Buffalo County adjust our regulations to adapt to the changing requests, and not deter from the house for emergency vehicles.

Mitch Humphrey offered a recommendation: creating a Planned District Overlay Concept, with the ability to analyze any deviations from code. Deputy County Attorney Hoffmeister stated that he would prefer to stay with Special Use Permits. Mr. Humphrey stated that a Planned District Overlay would prevent these types of issues. He stated that properties could be rezoned for an overlay and the owners would provide a site & building plan to The Board of Commissioners. Deputy County Attorney Hoffmeister asked Mr. Humphrey if this is approved through the Zoning Administrator and Mr. Humphrey stated that it would go through Planning and Zoning and The Board of Commissioners. Mr. Duncan said he thought that would be a good alternative, due to the topography of Buffalo County. Mr. Humphrey stated that each property could be reviewed on a case-by-case basis.

Chairperson Brady stated that he believed it was time to make a decision, instead of what potentially could be considered. Vice-Chairperson Keep asked if the Planned District would be requested at the time that the subdivision is filed. Mr. Humphrey stated that it could, or be reviewed

on an individual basis. Deputy County Attorney Hoffmeister stated that the Buffalo County Code is not ready for that kind of option. Mr. Humphrey agreed.

Vice Chairperson Keep asked for clarification on Buffalo County's definition of front yard. Deputy County Attorney Hoffmeister clarified.

Secretary Wolfe recommended a 10% of the setback variable option. Mr. Wozniak recommended changing the definition of the front yard to say "not block the house". Deputy County Attorney Hoffmeister stated that neither of those options is feasible.

Deputy County Attorney Hoffmeister addressed The Commission and asked if any of the members had issues with adding the word "side" to the code. No concerns were expressed.

Deputy County Attorney Hoffmeister, then, asked The Commission if any of the members had issues with 120 square foot exemption. No concerns were expressed.

Deputy County Attorney Hoffmeister asked if they agreed with allowing front yard construction via a Special Use Permit. There does not appear to be a consensus among the members.

Deputy County Attorney Hoffmeister requested to handle the exemption amendment.

Jori Pearson, with Morton Buildings, stated that he would like the opportunity to explore projects on individual basis, much like Mr. Duncan's project. He stated that he would like to see consistency in how these projects are being handled.

Chairperson Brady closed the public hearing at 8:45 p.m. and opened up discussion for The Commission.

Mr. Biehl asked the purpose of the front yard restriction. Deputy County Attorney Hoffmeister stated that it is to protect the general appearance of the neighborhood and the spirit of the district. Deputy County Attorney Hoffmeister suggested allowing construction of 30% of the area of the side, front, & rear yards. Discussion occurred how to be objective regarding how the 30% was defined and Chairperson Brady stated that The Commission needs to make objective decisions, not subjective.

Mr. Schmidt added that the examples that were presented could make a difference where owners intend to place their accessory structures.

Chairperson Brady asked for a motion to change language in Section 8.1, in the following sentence: "Accessory buildings and structures shall not occupy more than thirty percent of the area of the side and rear yard."

Vice-Chairperson Keep made a motion to change the language as "Accessory buildings and structures shall not occupy more than thirty percent of the ~~required~~ area of the front, side and rear yards." Deputy County Attorney requested clarification. Vice-Chairperson Keep stated that it

would be the combined area of the lot and to change the language of Section 8.1 to read: “the ~~required~~ area of the front, side & rear yards.” Mr. Biehl seconded that motion.

Motion was made to amend Section 8.1 “Accessory buildings and structures shall not occupy more than thirty percent of the ~~required~~ area of the front, side and rear yards.”

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

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

Code Amendment #2:

Chairperson Brady announced part of item 6(c), opened a public hearing at 8:58 p.m. on Zoning Regulations, Section 5.14, under the Agricultural District, Add Accessory Use Structures and Uses by Special Use Permit, when the specific provision as to location and size of the allowed accessory use and/or structure by right do not apply, but the proposed accessory use and/or structure is in compliance all applicable minimum yard setbacks. Allow renumbering where necessary.

Deputy County Attorney Hoffmeister wanted to remind The Commission that since they recommended the allowance of accessory structures for construction in the front yard, in the previous motion, that additional consideration for this code amendment may not be necessary. He stated that any outliers regarding construction outside of the previously recommended amendments, would be automatically be reviewed as a variance with the Board of Adjustment, if The Commission wished to recommend that. Secretary Wolfe asked Zoning Administrator Daniels how many variances she thinks that she would receive with the newly recommended code amendments. Zoning Administrator Daniels stated that she would receive very few.

Mr. Vacek asked Deputy County Attorney Hoffmeister to define variance, to which Deputy County Attorney Hoffmeister did and he provided examples. Secretary Wolfe asked who approves variances and Deputy County Attorney Hoffmeister explained that The Board of Adjustment reviews and approves them. He stated that, perhaps, the variance application for other outliers may be acceptable and Mr. Vacek agreed. Mr. Vest also agreed and stated that he didn’t believe this amendment would be necessary after the previously recommended code amendment. Secretary Wolfe also agreed.

Chairperson Brady requested any additional commentary. Mr. Biehl requested clarification on how Buffalo County would handle other outliers. Deputy County Attorney Hoffmeister stated that they would be handled by the Board of Adjustments.

Chairperson Brady closed the public hearing at 9:10 p.m. and sought a motion for the proposed code amendment.

Motion was made by Jeffs and seconded by Vacek to recommend unfavorably the code amendment, not for adoption, of Section 5.14, under the Agricultural District (AGR District similar section reference is discussed later in minutes) to add Accessory Use Structures and Uses by Special Use Permit when the specific provision as to location and size of the allowed accessory use and/or structure by right do not apply, but the proposed accessory use and/or structure is in compliance all applicable minimum yard setbacks, the Buffalo County Board of Commissioners.

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

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

Code Amendment #3:

Chairperson Brady announced part of item 6(c), opened a public hearing at 9:11 p.m. on exemptions of Accessory Buildings under Section 8.1.

Deputy County Attorney Hoffmeister introduced this amendment. He stated that any accessory structures under 120 square feet are minimalistic and should not require a Zoning Permit. Mr. Schmidt requested clarification from Deputy County Attorney Hoffmeister that these proposed structures would still require a foundation and Deputy County Attorney Hoffmeister confirmed that it must be affixed to a permanent foundation.

Chairperson Brady asked Deputy County Attorney Hoffmeister if The Commission is reviewing a code amendment to provide exemption from Zoning Permit for structures 120 square feet or less. Deputy County Attorney Hoffmeister confirmed and also added that minimum setbacks must be met. Chairperson Brady agreed with the amendment.

Mr. Schmidt introduced 200 square feet as the minimum square footage for exemption. Deputy County Attorney Hoffmeister asked The Commission the size of a standard single car garage. Vice-Chairperson Keep stated that he thought it was 12’ x 24’. Mr. Schmidt stated that the 200 square foot may be more appropriate, as structures this size are becoming easier to buy and to move. Kevin Duncan, from the public, added that a standard single car garage was 10’ x 20’. Deputy County Attorney Hoffmeister stated that 200 square feet may be a better option.

Mr. Biehl asked if the proposed structures must still have a foundation. Deputy County Attorney stated that they need a foundation, by code. Mr. Biehl asked if the city of Kearney requires a permit. Discussion occurred what the city code requires for smaller structures. Mr. Biehl stated that he felt this exemption would be good option.

Secretary Wolfe stated that she preferred Mr. Schmidt’s recommendation of 200 square feet. Mr. Schmidt reiterated that he believes more of these sheds will start appearing. Secretary Wolfe

added that she agreed, and The Commission needs to support the rural way of life. Mr. Vacek agreed with the 200 square feet recommendation.

Mr. Biehl asked for clarification on how 200 square feet was established. Deputy County Attorney Hoffmeister stated that it was to be large enough for storage, but smaller than a garage.

Chairperson Brady closed the public hearing at 9:30 p.m. and sought a motion for the proposed code amendment.

Motion was made by Vest and seconded by Wolfe, to recommend favorably the code amendment for exemption for the need of a Zoning Permit, for Accessory Buildings, less than 200 square feet, under Section 8.1, but still require minimum setbacks be applicable.

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

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

Zoning Administrator Daniels asked The Commission how they wished to handle the amendment of Section 5.34, Zoning Regulations, under the Agricultural – Residential (AGR) District, as it didn't appear that a recommendation was made.

For clarification purposes, Chairperson Brady asked The Commission if it is acceptable to add the proposed code amendment Section 5.34 (Agricultural – Residential {AGR} District), as part of the recommended denial, for both Agriculture (AG) and Agricultural – Residential (AGR) Zoning Districts. Chairperson Brady asked The Commission if anyone had any concerns regarding this clarification. No opposition occurred.

Old Business

Minutes

Motion was made by Biehl, seconded by Vacek, to approve the minutes of the November 19, 2020, as presented.

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

Voting no: None.

Abstain: Schmidt.

Absent: None.

Motion carried.

Zoning Administrator Daniels notified The Commission that the Application for Appointment, discussed at the November 19, 2020, Planning and Zoning Meeting, was within the packets. She

requested that The Commission review the application and provide any feedback. The application was reviewed.

Discussion occurred how many members were currently rural and urban. Deputy County Attorney Hoffmeister clarified that the majority on The Commission must be rural. At this time, The Commission currently has four rural and four urban members. The final applicant/appointee must be a rural candidate.

Zoning Administrator Daniels reported that she advertised in the Shelton Clipper for two weeks, during the month of December, for a Planning and Zoning Commission opening and received no response. She also explained that a copy of the newspaper print and a larger copy was within The Commission's packet, for review.

New Business

Zoning Administrator Daniels also announced that the 2020 Zoning & Floodplain Report was issued in the Planning & Zoning Commission's packets. She reviewed some highlights from the report.

Report on Previous Hearings

Zoning Administrator Daniels reported on past recommendations of the Planning and Zoning Commission, after Board of Commissioner's public hearings:

JRAYD, L.L.C Special Use Permit was approved by The Board of Commissioners on December 8, 2020.

The Board of Commissioners approved the Special Permit, applied for by Brent & Kinzy Carmody, on December 8, 2020.

The Code Amendments, under Section 5.34, regarding Adding Solar Systems by Special Use Permit & Remove Mini Storage Facilities, was approved by the Board of Commissioners on the December 8, 2020.

The Subdivision Regulations, under Section 4.06, regarding block requirements was approved by the Board of Commissioners December 8, 2020.

New Business, Correspondence & Other Business

ETJ Subdivisions Correspondences

Zoning Administrator Daniels stated that the City of Kearney submitted the Final Annexation for property located South of 56th Street between the Kearney East Expressway and Airport Road, West of Airport Road, North and West of Cessna Street, West of Piper Avenue, North of Patriot Boulevard, East of Cherry Avenue and Kearney East Expressway, that was reviewed at the November 19, 2020, Planning and Zoning Meeting.

Zoning Administrator Daniels also reviewed the Fountain Hills Twelfth Addition Extra-Territorial Jurisdiction correspondence.

Next Meeting

The next meeting will be conducted February 18, 2021, if needed.

Final Thoughts:

Zoning Administrator Daniels stated that she would mailing out documents that would need the chairperson's and the secretary's signatures.

Zoning Administrator Daniels also stated that Mileage Rates for the IRS have changed, as of 1/1/2021 and is now \$0.56; it was \$0.575.

Zoning Administrator Daniels added that the NPZA Conference, normally scheduled in March has been moved to September 15-17, 2021. She assured The Commission that when she receives more information regarding the conference, the information will be provided.

Adjourn

Chairperson Brady adjourned the meeting at 9:48 p.m.