

MINUTES OF PLANNING & ZONING COMMISSION
APRIL 15, 2021
BUFFALO COUNTY COURTHOUSE
7:00 P.M.

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

Chairperson Scott Brady opened the meeting at 7:03 p.m. with a quorum present on April 15, 2021.

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

Quorum was met. Randy Vest was present after roll call.

Also attending were: Deputy County Attorney Kari Fisk, Zoning Administrator Dennise Daniels, and a few members of the public.

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

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

Public Hearing. 5(a)

Chairperson Brady opened Agenda Item 5(a) at 7:04 p.m. regarding the Application for Partial Plat Vacation, of part of Lot 9, Linger's Subdivision, filed by Trenton Snow, licensed land surveyor, on behalf of Roger L. Swearingen and Renee L. Swearingen, located in part of Government Lot 4 in the Northeast Quarter of the Southwest Quarter of Section Thirty-six (36), Township Nine (9), Range Fourteen (14) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

Chairperson Brady asked any individuals to step forward in representation of the vacation. Trenton Snow, licensed land surveyor stepped forward. He also introduced Roger Swearingen, the applicant for the vacation, with his realtor, Susan Bice. He addressed The Commission and stated that the parcel that was part of the proposed vacation was the old gas station south of Gibbon, Nebraska. He stated that Mr. Swearingen's intent is to sell the gas station portion of the property and retain the area with his shop. He intends to do an administrative subdivision, which will go in front of the Board of Commissioners. Mr. Snow went on to explain that he has brought The Commission forward to request a vacation of part of Linger's Subdivision. He stated that Linger's Subdivision was platted in 1917 and since this subdivision is not an administrative subdivision, it needs to be reviewed by The Commission. He stated that only a portion of Lot 9, Linger's Subdivision will be vacated and then platted into an administrative subdivision, Swearingen Acres. Mr. Snow opened the floor to questions.

Vice-Chairperson Keep confirmed that there will be two lots on the proposed administrative subdivision: one for the gas station and one for the shop portion. Mr. Snow confirmed. Vice-Chairperson Keep asked Mr. Snow the size of the lots in the proposed administrative subdivision. Mr. Snow stated Lot 1 would be composed of 1.04 acres and Lot 2 would be composed of 3.18 acres. Mr. Snow also notified The Commission that this area is zoned Commercial.

Ms. Wolfe asked if the property had been reviewed by the Department of Environmental Quality for the previous use of the gas station. Mr. Snow confirmed that there is a company reviewing the property and would be providing an assessment on the continued use of the gas station. He went on to say that there will be no changes on this property, as far as use. The gas station will continue to use the lagoon and there will be an agreement between Mr. Swearingen and the purchaser of the gas station for the use of the lagoon.

Mr. Biehl confirmed the location of the shop. Mr. Snow stated that the shop was the building in the northwest corner of the proposed area.

Mr. Schmidt inquired the odd shape of the proposed lots. Mr. Snow stated that it was to follow the existing fence line and sign, along that property.

Ms. Wolfe asked the intent for the property. Mr. Snow stated that it is Commercial and no rezone would take place as Mr. Swearingen wished to keep the use the same

Chairperson Brady confirmed that this area will be vacated and platted into 2 portions. Mr. Snow corroborated.

Zoning Administrator Daniels asked Mr. Snow if the entire ownership by Mr. Swearingen would be vacated and Mr. Snow confirmed.

Mr. Biehl stated that he believed it was a good idea.

Chairperson Brady requested Mr. Snow to reinforce that this property would remain a gas station and Mr. Snow confirmed.

A member of the public identified himself as Roger Swearingen, the applicant for the vacation, along with his realtor Susan Bice, gave a background on this property and how the interstate came to be. Two other members of the public identified themselves as Leslie & Sherry Zwink, neighbors of the proposed vacated property, also provided a background.

Chairperson Brady asked if there was any opposition of the proposed partial vacation and asked for further discussion between The Commission. No one spoke.

Chairperson Brady closed the discussion on this agenda item at 7:15 p.m.

Motion was by Mr. Biehl, seconded by Mr. Vacek, to recommend favorably the Application for Partial Vacation to the Buffalo County Board of Commissioners.

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

Voting no: None.
Abstain: None.
Absent: None.

Public Hearing, 5(b)

Chairperson Brady opened Agenda Item 5(b) at 7:17 p.m. regarding a Code Amendment to Section 3.3172 of Buffalo County Zoning Regulations, regarding the definition of “Structure” to include, but not limited to: water services, electrical connections, and sewer usage.

The proposed amendment is to Section 3.3172, of Buffalo County Zoning Regulations to read:

“3.3172 STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground; ~~or~~ attachment to something having a permanent location on the ground; semi-permanent attachment to the ground; or is permanently or semi permanently connected to any one of the following services, regardless of whether the service described is self-provided, created on the premises, or publicly provided:

a. water service provided with a plumbing connection of more permanency than that of a garden hose,

b. electrical connection to a public utility or alternative energy source of more than 1,000 watts that has permanency than that of an unburied electrical drop or extension cord.

c. sewer or sewers, for waste deposited and/or created within any structure that releases any sewage effluvia outside of the structure. ~~but not including~~

**New Paragraph* This-A Structure does not include fences or public items such as utility poles, street light fixtures and street signs.”*

Zoning Administrator Daniels notified The Commission of a revision, since the original packet went out, to include a new paragraph after “...~~but not including~~...” She also went on to read Deputy County Attorney Andrew Hoffmeister’s note to The Commission about why this amendment was brought before them. “We’ve had some situations regarding review of trailer houses, hoop houses, and larger, i.e. over 200 square feet sheds on skids. Technically, none of these improvements are anchored on concrete. All are somewhat permanent. All of these structures need some form of regulation regarding placement within setback areas. This is the City of Kearney’s definition:

12-123- ‘STRUCTURE: Any object constructed or built and attached or anchored permanently or semi-permanently to the ground in such a way as to prevent routine movement.’ ‘Routine movement’ can mean a lot of things.”

Zoning Administrator Daniels stated that she believed primary intent of this amendment to provide a clear answer on what can be construed as a “structure”. Deputy County Attorney Fisk addressed The Commission and stated that it is to help provide some regulations on trailers and larger buildings, as structures, that are too close to the street. She stated that this provision is already listed on several other codes across the area.

Vice-Chairperson Keep asked if Section 3.3173, “Structural Alterations” needed to be reviewed, as well. Deputy County Attorney Fisk stated that this amendment will be adding a semi-permanent attachment provision. It helps Buffalo County define a semi-permanent structure, such as a yurt.

Vice-Chairperson Keep asked if the amendment is due to the regulation of setbacks and Deputy County Attorney Fisk confirmed. She said this will primarily affect structures are skids, campers, mobile homes, etc.

Chairperson Brady asked for further discussion.

Vice-Chairperson Keep asked if a garden hose, to a structure, would not make it a “structure” by the new amendment and Deputy County Attorney Fisk agreed. He inquired about semi-permanent utilities. Deputy County Attorney Fisk stated that it would need to be reviewed on a case-by-case basis.

Closed the discussion on this agenda item at 7:31 p.m.

Motion was by Ms. Wolfe, seconded by Mr. Vacek, to recommend favorably the Code Amendment as presented to the Buffalo County Board of Commissioners.

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

Voting no: None.

Abstain: None.

Absent: None.

Discussion ensued regarding the process of tabling public hearings, if need be.

Old Business

Minutes

Motion was made by Mr. Vacek, seconded by Mr. Vest, to approve the minutes of the February 18, 2021, meeting as presented.

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

Voting no: None.

Abstain: None.

Absent: None.

Motion carried.

New Business

Report on Previous Hearings

Zoning Administrator Daniels stated she had no report on previous hearings, as the February meeting included a workshop session.

New Business, Correspondence & Other Business

ETJ Subdivisions Correspondences

Zoning Administrator Daniels notified The Commission of the following ETJ correspondences and highlighted the letters, in response, to those proposed revisions: Tech One Third Subdivision, Stoneridge Tenth Addition and Hofferber – Capellen Subdivision were all reviewed by the City of Kearney Planning Commission on 3/19/2021. Fenwick Subdivision, Fountain Hills Thirteenth Subdivision, & Radtke Artrup Subdivision, & Erin’s Valley Second Subdivision were reviewed by the City of Kearney Planning Commission on 4/16/2021.

The Gibbon Planning Commission reviewed Shiers Estates Fourth on 4/12/2021. Vice-Chairperson Keep brought to Zoning Administrator Daniels’ attention that an incorrect letter was placed in the packet regarding the correspondence. Zoning Administrator Daniels stated that the correct letter was sent, but the incorrect one was placed in the packet.

The Pleasanton Planning Commission reviewed the preliminary plat of Pinecrest Second Subdivision on 4/12/2021. Discussion occurred regarding the roads and what would be required for Buffalo County to maintain them.

Zoning Administrator Daniels provided an update to The Commission on the Planning and Zoning Member search. She stated that has had some applications trickle in for the opening. None in the eastern half of the county. She let The Commission know that ran an ad in the Ravenna News and the Shelton Clipper for 2 weeks – the week of March 21 & March 28. She showed the examples to The Commission. There has been minimal interest generated. She has also reached out to The Commissioners and inquired if they had anyone in mind. She stated that The Commissioners are working diligently to fill the position and requested that if any members know of anyone that may be interested, please let her know!

Zoning Administrator Daniels also notified The Commission of a late notice from the Howard County Planning and Zoning Commission for a public hearing on April 21, 2021.

Zoning Administrator Daniels made The Commission aware that she has requested bids for the Comprehensive Plan renewal. Discussion ensued to what would be required of The Commission for the process.

Next Meeting

The next meeting will be conducted May 20, 2021, if needed.

Adjourn

Chairperson Brady adjourned the meeting at 8:05 p.m.