

MINUTES OF PLANNING & ZONING COMMISSION
OCTOBER 21, 2021
BUFFALO COUNTY COURTHOUSE
5:00 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 5:00 p.m. with a quorum present on October 21, 2021.

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

Marc Vacek and Randy Vest were absent.

Quorum was met.

Also attending were: Deputy County Attorney Andrew Hoffmeister, Zoning Administrator Dennise Daniels, Scott Stubblefield, and Hanna:Keelan Associates Planners: Tim Keelan, and Keith Carl.

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

Public Hearing. 3(a)

Chairperson Brady opened the public hearing for Agenda Item 3(a) at 5:01 p.m. regarding Buffalo County Comprehensive Plan, or the general plan for the improvement and development of the county outside of the jurisdiction of any city or village, as required per Neb. Rev. Stat. §23-174.06.

Hanna:Keelan, Associates' Planners, Tim Keelan & Keith Carl stepped forward to review the agenda items and present preliminary data. Mr. Keelan asked The Commission if they had received the agenda and the packet from Hanna:Keelan, Associates. The Commission agreed.

Mr. Keelan instigated introductions with The Commission, provided background for Hanna:Keelan, Associates, and reviewed the agenda. Mr. Keelan went through the Scope of Work, cost, and statutory requirements. Deputy County Attorney Hoffmeister asked how many off-campus visits Hanna:Keelan, Associates intended to do. Mr. Keelan said that could be determined later. Discussion occurred regarding potential places of convening. At this point, a member of the public, Scott Stubblefield introduced himself, as a prospective member of the Planning and Zoning Commission. Deputy County Attorney Hoffmeister went on to recommend various places to meet with the public for comprehensive plan feedback.

Mr. Keelan highlighted the “Preliminary” Population, Income, Economic & Housing Profile and Agricultural Census packet and the projected growth for Buffalo County. Mr. Carl and Mr. Keelan also reviewed the census data and how it affects the projected growth for rural Buffalo County. Mr. Keelan asked The Commission to contemplate and consider how they wish to accommodate the increasing growth in Buffalo County. Discussion occurred regarding possible resolutions for the growth.

Mr. Keelan and Mr. Carl touched on The County-Wide Opinion Survey with The Commission and requested The Commission consider their questions or concerns regarding the survey. Mr. Keelan also invited The Commission to consider who should participate in the survey, what kind of survey should be conducted, and any content they wished to see. This particular subject will be reviewed in detail at the November 18, 2021 meeting.

Mr. Keelan also requested that The Commission ponder Key Issues shown on the agenda, related to Existing/Future Land Use and County Economic Development.

Mr. Keelan stated that all information discussed in the meeting would be considered when creating a mock survey to review in November with The Commission.

Chairperson Brady closed the public hearing for Agenda Item 3(a) at 6:33 p.m.

Chairperson Brady recessed the meeting at 6:33 p.m. until 7:00 p.m.

The Planning and Zoning Commission reconvened at 7:00 p.m. with the following members in attendance: Kurt Schmidt, Francis Biehl, Willie Keep, Loye Wolfe, Scott Brady, & Tammy Jeffs.

Marc Vacek and Randy Vest remained absent.

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

The public forum was opened at 7:01 p.m. The public forum closed at 7:02 p.m.

Public Hearing. 9(a)

Chairperson Brady opened the public hearing for Agenda Item 9(a) at 7:02 p.m. regarding a Special Use Permit Application to operate a Recreational/Event Center, filed by Alissa Kern, on behalf of UDDUP, L.L.C., for property located at 51460 100th Road, Shelton, Nebraska, 68876, described as Part of the Southeast Quarter of Section Five (5), Township Nine (9) North, Range Thirteen (13) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

Alissa Kern, owner of UDDUP, L.L.C., stepped forward to present the application. She stated that she purchased The Village, previously known as The Boxcar, in Kearney and also this property near Shelton, to provide venues for weddings and receptions. She stated that several people approached her about purchasing a rural property for weddings and receptions. When she looked at purchasing this property, she stated that she had reviewed the Zoning Regulations.

There is a 3-bedroom house on site and her family member is living there. Anyone who wishes to rent the area, uses it Friday and Saturday. She testified, for as little as she would be using the property, she assumed that it could be classified as a Bed and Breakfast. She attested that the use of the property is now going beyond what could be considered a Bed and Breakfast. She's come before The Commission requesting an approval of the Special Use Permit for "The Farm", to be used for wedding ceremonies and receptions.

Deputy County Attorney Hoffmeister asked if they had a 911 sign up and Ms. Kern confirmed there was a sign located along 100th Road. Deputy County Attorney Hoffmeister reminded The Commission about the recent code amendment regarding Professional Design and Supervision to Obtain a Zoning Permit, under Section 10.22, which required any structure, which would have more than 25 people at any given time, be certified. He let The Commission know that, after some research and recommendations from local telecommunications specialists, a test was conducted by the Sheriff's Office, insuring the interconnectivity needs were met.

Deputy County Attorney Hoffmeister asked Ms. Kern the maximum amount of cars parked at her events and Ms. Kern testified around 100 cars. He, then, asked what her occupancy was issued by the Fire Marshal and she stated the Occupancy Permit was issued for 265 people, but just for the barn.

Deputy County Attorney Hoffmeister asked who the closest neighbor was. Ms. Kern stated there was a neighbor across the road, but it just sold, so she was unaware who the new owner was.

Vice-Chairperson Keep asked Zoning Administrator Daniels where Highway 30 was in relation to the proposed property. Zoning Administrator Daniels stated that it was south and provided an aerial using the GIS imagery.

Chairperson Brady asked Ms. Kern who resided in the house and Ms. Kern stated that it was her daughter.

Deputy County Attorney Hoffmeister asked Ms. Kern if the property could be used for anything other than weddings and receptions and Mrs. Kern stated she felt she could.

Secretary Wolfe asked Mrs. Kern how many doors are located on the barn. Ms. Kern detailed that the north side of the barn just had windows, but the south side had four doors, the east side had two and the west had one. Secretary Wolfe confirmed that people inside could escape, if there were a fire. Ms. Kern stated that The Fire Marshal recommended emergency exits. Secretary Wolfe asked Ms. Kern if there were stairs and an upper level to the barn. Ms. Kern said there had been, but was removed because it was not structurally safe.

Secretary Wolfe asked Ms. Kern about liquor licenses. Ms. Kern stated that they cannot get a liquor license because the property is also a residence. She went on to explain that she can get a Special Designation License. Secretary Wolfe inquired whether Ms. Kern always notifies the Buffalo County Sheriff's Office of events. Ms. Kern stated that she has her other business, The Village, apply for the liquor license, and licensing goes through Buffalo County and the Sheriff's Office.

Ms. Jeffs asked Mrs. Kern if she provides any security at her events. Ms. Kern said that she employs five people and they have been through TIPS Alcohol Training. During these events, she attested, all customers are carded and are issued a wristband, if eligible. She said these employees act as a collective security team.

Secretary Wolfe asked Ms. Kern about parking and her plan. Ms. Kern referenced her parking plan in The Commission's packet. Ms. Kern mentioned the parking plan and stated that she does have an overflow parking area to the west of the property. She stated that she could open the gate, which is located on her property, and allow people to park in this area, although the need has never occurred.

Deputy County Attorney Hoffmeister asked Ms. Kern if the GIS image of her property was correct. Ms. Kern confirmed and referenced the floodplain.

Chairperson Brady asked Ms. Kern if her customers ever parked in or along the road. Mrs. Kern confirmed that she had. She testified that if someone needed to park on the road, they could park on 100th Road, because it is less travelled. Chairperson Brady requested Ms. Kern show where parking was allowed. Ms. Kern obliged. Chairperson Brady asked Ms. Kern if she owned the overflow parking area and Mrs. Kern stated that she did not. She stated that it is just a prairie area that is gated, but only on her side of the fence and the only access.

Deputy County Attorney Hoffmeister asked Ms. Kern if she owned the land south of 100th Road and Ms. Kern confirmed. She went on to explain that it is heavily-forested and partially situated on river ground.

Vice-Chairperson Keep asked if she had any kind of agreement to allow customers to park in the overflow area. Ms. Kern stated that she did not.

Mr. Biehl noted it appeared to be a nice location; however, he wanted to know how long she'd been in operation. Ms. Kern stated that they purchased the property before COVID-19, refurbished the property and began booking ceremonies this year.

Chairperson Brady stated that he believed that off-road parking should be required. Deputy County Attorney Hoffmeister agreed.

Mr. Stubblefield asked Ms. Kern what kind of septic system she was using and Ms. Kern stated she was using porta-potties, but the house also has two bathrooms. The people who rent the property also get full access to the bathrooms. She explained that she would eventually like to put in a new well and septic system.

Mr. Schmidt asked if the pergola area on the northeast part of the property is for parking. Ms. Kern stated that it was not; it was a gathering place for guests. She said it's easier to put crushed rock on the ground than trying to mow around picnic tables. Mr. Biehl asked how many picnic tables she had on site and Ms. Kern said that there were about 100 tables.

Vice-Chairperson Keep asked about outdoor lighting. Ms. Kern stated that they have outdoor lighting, but the pergola are hardwired for lights.

Chairperson Brady asked if there were additional questions. He, then, asked Ms. Kern if she believed road parking was an issue. Ms. Kern stated that she believes she has sufficient parking and has added a fifth employee to ensure people are not parking on the roads. She said that people still park on the road, regardless of her business' wishes.

Chairperson Brady asked Ms. Kern if she has ever used the overflow parking and Ms. Kern stated she had not. Chairperson Brady asked why she wasn't using the overflow parking if she had customers parking on the road. Ms. Kern stated that she can't force customers to park in the overflow area and admits that she allows people to park on the right side of the road. Mr. Biehl added that parking on the road is never a good idea and people could get hurt. Deputy County Attorney Hoffmeister reminded The Commission that the regulation states that there needs to be one parking spot to four people. He said that Ms. Kern appears to have sufficient parking, taking into account 100-125 people. He stated that she needed to have 25 parking spots, and there appeared to be enough area. Ms. Kern went on to explain she believed she does have adequate parking and also provides two handicapped accessible parking spots. Chairperson Brady maintained that if she had sufficient parking, she should not have issues with keeping customers from parking on the road. Discussion occurred regarding the disallowance of road parking and being enforceable by Law Enforcement and ensuring The Commission remaining consistent for off-road parking.

Ms. Kern asked The Commission how they wished for her to enforce the parking and Deputy County Attorney Hoffmeister stated that she should recommend the customer move vehicles or receive a citation. Discussion occurred regarding the ability of The Commission to keep people from parking on the road and how enforceable it was. Deputy County Attorney Hoffmeister asked if there were signs posted for no parking and Ms. Kern stated that there is, but no one adheres.

Chairperson Brady asked if anyone had any additional comment. A member of the public and a neighbor to the south, Brian Kroll, of 9390 Sodtown Road, addressed The Commission. He stated that has concerns regarding parking on the roads. He testified that there have been three particular events in which customers were parked on the roads. Mr. Kroll stepped to the GIS Imagery and expressed concern to The Commission he can't make it to his house with farm machinery, unless he goes around to the highway. He affirmed he appreciates the business Ms. Kern has and is an asset to the area, but parking on the roads creates issues for the local property owners. Additionally, he declared, when people leave the reception, they leave in excessive speeds and also use his drive way to turn around. He recommended erecting a sign before the curve on 100th Road to let passers-by be aware that there was an event in session. He thanked The Commission for handling the concerns had by the neighbors.

Chairperson Brady opened the floor to any other questions or comments regarding the application.

Chairperson Brady closed the discussion on this agenda item at 7:40 p.m.

Vice-Chairperson Keep stated he believed that more signs needed to be posted and the applicant should notify the Sheriff any time an event takes place. He recommended using a fold-up or temporary sign to notify the public of parking areas. Secretary Wolfe recommended enclosing a map in the materials and providing the required parking areas. Secretary Wolfe specified that signage would be the best recommendation. Chairperson Brady stated that he still has concerns about someone getting hurt with parking on the road. Ms. Kern attested that she owns The Village in Kearney, but people don't seem to be perceptive of where parking is allowed, whether signage is posted or not. She said she will do anything The Commission requires, but people don't adhere to signs or recommendations. Chairperson Brady recommended hiring additional staff to ensure the parking concerns and to ensure the safety of the neighbors and the guests.

Vice-Chairperson Keep asked Ms. Kern how many events she'd held. She stated that she'd had 10 events since April. Chairperson Brady inquired when the last larger event was when guests parked on the road and Ms. Kern said that it was the end of September.

Chairperson Brady asked if anyone had additional comments. Mr. Biehl stated that he felt it was important to have something posted stating there was to be no parking on the roads. Ms. Jeffs recommended an "entrance" sign. Ms. Kern stated they have an entrance/parking sign, but did not appear to work. Ms. Jeffs asked if we could request a "No Parking" sign. Deputy County Attorney liked the idea.

Chairperson Brady asked if an additional driveway could be added on the east side of the outflow parking. Ms. Kern stated it is possible; there is a culvert, but it could get expensive, and their propane tank is located near that area. Discussion occurred regarding the requirements of a second driveway.

Chairperson Brady asked if anyone would like to make a motion or recommend any conditions.

Motion was by Secretary Wolfe to recommend favorably the application. Vice-Chairperson Keep wished to second that motion, but with amendments: third driveway and temporary signs that say "events in session" and lights facing downward, not to obstruct oncoming traffic and two signs to indicate the "in" and "out". Discussion occurred who is responsible for the costs of signs and the third driveway.

Ms. Jeffs recommended eliminating the third drive and putting up "official" "no parking" signs.

Motion was by Secretary Wolfe, seconded by Ms. Jeffs, to recommend favorably the Special Use Permit filed by Alissa Kern, on behalf of UDDUP, L.L.C., for property located at 51460 100th Road, Shelton, Nebraska, 68876, described as Part of the Southeast Quarter of Section Five (5), Township Nine (9) North, Range Thirteen (13) West of the Sixth Principal Meridian, Buffalo County, Nebraska, to the Buffalo County Board of Commissioners with the following conditions:

No parking signs posted in the county right-of-way.

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

Voting no: Brady.

Abstain: None.
Absent: Vacek and Vest.

Public Hearing. 9(b)

Chairperson Brady opened the public hearing for Agenda Item 9(b) at 8:15 p.m. regarding an Application for Zoning Map Amendment, filed by Mitch Humphrey, licensed land surveyor, on behalf of Albert B. Loeffelholz and Janice M. Loeffelholz, for property described as Part of the Southwest Quarter of the Southeast Quarter of Section Six (6), Township Ten (10) North, Range Fifteen (15) West of the Sixth Principal Meridian, Buffalo County, Nebraska. The applicant has requested to rezone approximately 4.55 acres, of which approximately 0.28 acres are presently being used for road purposes on the South side, from AG – Agriculture to AGR – Agricultural Residential.

Mitch Humphrey, licensed land surveyor, stepped forward to present the application. He stated that Albert Loeffelholz and Janice Loeffelholz, who were present in the hearing, have submitted an Application for Zoning Map Amendment. Mr. and Mrs. Loeffelholz own 150 acres, currently, and are looking to subdivide a 4-acre tract of land for their grandson to build a house. Mitch Humphrey referenced the exhibits in the packet and the neighbors in the area. Deputy County Attorney Hoffmeister referenced the Future Land Use Map. Discussion occurred regarding Comprehensive Plan considerations.

Chairperson Brady asked if anyone had additional questions or concerns.

Chairperson Brady closed the discussion on this agenda item at 8:24 p.m.

Motion was made by Mr. Biehl, seconded by Mr. Schmidt, to recommend favorably the Application for Zoning Map Amendment, filed by Mitch Humphrey, licensed land surveyor, on behalf of Albert B. Loeffelholz and Janice M. Loeffelholz, for property described as Part of the Southwest Quarter of the Southeast Quarter of Section Six (6), Township Ten (10) North, Range Fifteen (15) West of the Sixth Principal Meridian, Buffalo County, Nebraska, to the Buffalo County Board of Commissioners.

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

Voting no: None.

Abstain: None.

Absent: Vacek & Vest.

Public Hearing. 9(c)

Chairperson Brady opened the public hearing for Agenda Item 9(c) at 8:28 p.m. regarding Code Amendments to correct typographical errors and to add language in Section 8.32, Buffalo Zoning Regulations, regarding signage.

Deputy County Attorney Hoffmeister presented these code amendments under Section 8.32 as follows:

1. To add the language "...& Streets" to the table in Section 8.32 (3), clarifying that streets are not classified under Public Property Use Lands for this particular code:
 - a. "Minimum Distance from Public Property Use Land: Other than 8.32 (1) & Streets".

2. Correct inconsistency (error) in Buffalo County Zoning Regulations, Section 8.32 (3), to be consistent with Section 8.32 (1) regarding Minimum Distance from Any Property Line ***and*** to correct Buffalo County Zoning Regulations, Section 8.32 (3), to read "measured in feet" from "measure in feet".
 - a. Section 8.32 (1) states: "Maintain as a minimum setback from all property lines a distance equal in feet to the square ***root*** of the area of the sign, plus the height, both measured in feet, rounded up, which said distance shall be measured from the nearest edge of the sign to any property line."
 - b. Section 8.32 (3) states: "The square ***foot-root*** of the area of the sign, plus the height of the sign, both measured ***d*** in feet, with each number rounded up prior to addition of the two."

Chairperson Brady closed the discussion on this agenda item at 8:32 p.m.

Motion was made by Mr. Biehl, seconded by Ms. Jeffs, to recommend favorably the proposed code amendment as presented, to the Buffalo County Board of Commissioners.

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

Voting no: None.

Abstain: None.

Absent: Vacek & Vest.

Public Hearing. 9(d)

Chairperson Brady opened the public hearing for Agenda Item 9(d) at 8:33 p.m. regarding Code Amendments to Buffalo County Zoning Regulations, Section 5.16, in the Agriculture (AG) District, and Section 5.27, in the Rural Conservation (RC) District, to clarify minimum size requirements for existing farmsteads.

Deputy County Attorney Hoffmeister presented this code amendment in Section 5.16 (2B) and Section 5.27 (2B) to show: "Existing farmsteads of 3 acres or more not previously subdivided as of the date of adoption of the zoning ordinance as defined in the zoning regulations can be subdivided into two parcels, the minimum size ***of one of each of*** said parcels shall not be less than 3 acres..."

Chairperson Brady closed the discussion on this agenda item at 8:38 p.m.

Motion was made by Vice-Chairperson Keep, seconded by Mr. Schmidt, to recommend favorably the proposed code amendment as presented to the Buffalo County Board of Commissioners.

Voting yes: Wolfe, Brady, Biehl, Jeffs, Keep, & Schmidt.
Voting no: None.
Abstain: None.
Absent: Vacek & Vest.

Old Business

Minutes

Motion was made by Secretary Wolfe, seconded by Ms. Jeffs, to approve the minutes of the June 17, 2021 meeting, as presented.

Voting yes: Biehl, Jeffs, Keep, Schmidt, Wolfe, & Brady.
Voting no: None.
Abstain: None.
Absent: Vacek & Vest.

Motion carried.

New Business

Report on Previous Hearings

Zoning Administrator Daniels provided a report on the previous hearings from the June 17, 2021, Planning and Zoning Meeting. The Code Amendments regarding Emergency Responder Radio Coverage, Signage and Clarification and Requirements of Accesses were all approved by the Board of Commissioner's on July 13, 2021.

New Business, Correspondence & Other Business

Zoning Administrator Daniels notified The Commission of the Annexation of Millennial Estates 5th Addition.

Zoning Administrator Daniels inquired how The Commission wished to satisfy Nebraska Revised Statute 16-902.3, which states that the county planning commission officially shall provide comment on the appropriateness of design or improvements on any proposed plat in the extra-territorial jurisdiction of a community within four weeks.

Motion was made by Ms. Jeffs, seconded by Secretary Wolfe, appointing the Buffalo County Zoning Administrator, to provide comment, on behalf of the Buffalo County Planning and Zoning Commission, regarding any proposed plats within the extra-territorial jurisdiction of any community.

Voting yes: Jeffs, Keep, Schmidt, Wolfe, Brady, & Biehl.
Voting no: None.
Abstain: None.

Absent: Vacek & Vest.

She also highlighted the following ETJ correspondences, with the submitted letters, in response, to those proposed subdivisions: North Pointe 2nd, Atchinson Country Estate, Midwest Elite Subdivision, Wood River Valley Estates, PrairieView Business Park, Master's Business Park 3rd, and Downey Subdivision. Discussion occurred to changes in the 2-mile radius. The Commission reviewed Zoning Administrator Daniels' drafts and recommended a few changes.

Zoning Administrator Daniels provided copies of the Dawson County and Custer County Notices of Public Hearing regarding code amendments.

Zoning Administrator Daniels also provided a Notice of Aeronautical Study in Mason City, Nebraska.

Next Meeting

The next meeting will be conducted November 18, 2021.

Adjourn

Chairperson Brady adjourned the meeting at 9:10 p.m.