

MINUTES OF PLANNING AND ZONING COMMISSION
JULY 18, 2024
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 and 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 7:02 P.M. on July 18, 2024.

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

Absent were the following members: Randy Vest and Scott Stubblefield.

Quorum has been met.

Also attending were: Deputy County Attorney Josiah Davis and Zoning Administrator Dennise Daniels. There were some members of the public present.

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.

Mr. Larry Greenwalt, of 2004 University Drive, Kearney, Nebraska, stepped forward. He thanked The Commission for their time. He explained that Mr. Biehl had suggested he attend the public forum to discuss his concerns of purchasing a tract of land for the purpose of constructing a home and outbuilding. He passed out a document, marked as Exhibit A, which was a site plan of the location of his proposed project. Chairperson Brady declared that The Commission is unable to take any action after Mr. Greenwalt's presentation. Mr. Greenwalt responded that he was aware, but wanted to receive some guidance. Mr. Greenwalt referenced Buffalo County Zoning Regulations, Section 5.16 (2), stating that all new dwellings must be 1,000 feet from all dwellings in the Agricultural (AG) District. He explained that Mr. Robert Griffin intends to subdivide a 10-acre tract and Mr. Greenwalt is interested in purchasing said tract, which is situated between Sweetwater Road and 106th Road. He stated that he wants to construct a residence and an outbuilding. He asked The Commission to interpret what "dwellings" mean, whether the 1,000 feet setback between dwellings include just residences or outbuildings.

Chairperson Brady asked if Mr. Greenwalt had purchased the land and Mr. Greenwalt responded that he has until the middle of August to decide if he is going to purchase the tract. He stated that Marshall Land Brokers is marketing the tract as a buildable lot and he inquired if the lot is, in fact, buildable. Mr. Greenwalt stated that he believes the lot is compliant with the zoning

regulations in that there are no more than 4 houses per section. Vice-Chairperson Keep inquired if Mr. Greenwalt meant that there are four residences per section or per quarter section and Mr. Greenwalt responded that he interpreted the regulations to state there needed to be four residences per section. Vice-Chairperson Keep explained that, in Buffalo County, in the Agricultural District, there can only be four residences per quarter section. Mr. Greenwalt stated that he misread the regulations. Vice-Chairperson Keep recommended that Mr. Greenwalt re-read the regulations because there should be a definition in the regulations.

Mr. Greenwalt asked if The Commission would provide a document to state that this particular tract is a buildable tract. He expressed concern that when he inquires, he is told to seek the advice of an attorney. He asked if there was an attorney present in the meeting. Deputy County Attorney Davis explained that The Commission is not in a position to provide legal advice for a hypothetical situation. He explained that it would be beneficial to hire an attorney that would represent Mr. Greenwalt's interests in the situation.

Mr. Greenwalt thanked The Commission for their time.

Chairperson Brady asked if anyone else wished to speak in the public forum and no one spoke.

The public forum closed at 7:10 P.M.

Chairperson Brady announced the procedure and etiquette for the upcoming public hearings.

Public Hearing. 5(a)

Chairperson Brady opened the public hearing for Agenda Item 5(a) at 7:11 P.M. regarding an Application for Preliminary Subdivision, "Eagle Hill Estates", filed by Trenton Snow, on behalf of Brent Carmody, CEO of Carmody Farms, L.L.C, located in Part of the South Half and the North Half and Part of the South Half, situated in Section Twenty-Seven (27), Township Nine (9) North, Range Seventeen (17) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

Trenton Snow, licensed land surveyor, of 1309 Central Avenue, Kearney, Nebraska, and Brent Carmody, managing member of Carmody Farms, L.L.C., of 3070 Odessa Road, Kearney, Nebraska, stepped forward to present the application. Mr. Snow explained that the public hearing is for a proposed preliminary plat.

Mr. Snow stated that some of the tract described had been administratively subdivided by Mr. Carmody earlier in the year, which was approved by The Board of Commissioners. He declared that Mr. Carmody intended to sell the three lots in the administrative subdivision, commencing cash flow, for the construction on the roads in the preliminary plat, if approved.

Mr. Snow added that covenants will be executed and, he continued, Mr. Carmody has completed the drainage study, as required under Buffalo County Subdivision Regulations. Mr. Snow testified the drainage study provides data required to establish locations of culverts, guide grading plans, as well as add drainage easements along the proposed lots.

Mr. Snow added that the lots vary in size from three acres to eighteen acres.

Mr. Snow identified “Outlot A”, to the north of the proposed subdivision. He explained that the fence that runs the section line is not where the fence is supposed to be located. He stated that the fence is on the south side of proposed “Outlot A”. He testified that Mr. Carmody owns the land up to the north side of proposed “Outlot A”. Mr. Carmody, Mr. Snow continued, intends to deed the proposed “Outlot A” to the neighbors to the north, who have used that tract of land for years and to clear up any discrepancies. He added that the proposed “Outlot A” will not be buildable.

Mr. Snow specified that the preliminary plat will not be finally platted at one time and will be completed in phases, but is unsure how the phases will be implemented at this time.

Mr. Snow asked if Mr. Carmody wished to add anything and Mr. Carmody responded no.

Mr. Snow asked if The Commission had any questions.

Vice-Chairperson Keep reviewed portions of the drainage study.

Mr. Snow stated there are, currently, three driveways, from the old house site, entering onto Odessa Road and Mr. Carmody intends to eliminate two of them. It is Mr. Carmody’s intent, Mr. Snow continued, to intersect Canyon Road and Odessa Road and have traffic enter onto Odessa Road at the bottom of the hill and not in the middle of the hills. Mr. Carmody explained that, after discussion with John Maul, Buffalo County Highway Superintendent, the proposed road way would have the best line of site and ensure the safety of all drivers.

Mr. Schmidt asked how the roads would be created within the subdivision and Mr. Carmody answered that they would be constructed in a way that is compliant with RL-2 standards.

Chairperson Brady questioned Mr. Carmody on the covenants within the subdivision and Mr. Carmody responded that some of the covenants include build dates, number of animals per lot, and house types (remove modulars/mobile homes).

Mr. Biehl asked if Mr. Carmody would have regulations in place to ensure the requirement of a principle use structure and Mr. Carmody confirmed and added that the owner will be permitted an outbuilding first, but would have to have a residence constructed within two years.

Vice-Chairperson Keep asked Zoning Administrator Daniels if Buffalo County defines a barndominium and Zoning Administrator Daniels responded that this particular area is zoned Agricultural – Residential (AGR), and, at this time, an accessory structure, alone, without a principal structure, would not be permitted.

Mr. Carmody added that covenants, also, require that no owner revise waterways or any drainages without the prior review by an engineer.

Chairperson Brady asked if The Commission had any additional questions. No one spoke.

Chairperson Brady inquired if anyone from the public wished to speak. Mark Robinson, of 21329 Leavenworth Circle, Elkhorn, Nebraska, stepped forward to speak. Mr. Robinson

explained that he owns property two miles north of the proposed development, which has been in his family since 1950. He said that has no issues with the development permitted traffic on Odessa Road. However, he continued, he had concerns regarding the development permitted traffic on Eagle Road. He stated that, with this particular development, the dirt extraction operation considered, for Brent Carmody, by The Commission at the June Meeting, and another emerging development along 100th Road and Eagle, he has concerns regarding the significant uptick in traffic on Eagle Road. He said that Eagle Road, with a ½ inch of rain, the road becomes impassable.

He asked The Commission how the proposed plat could be considered without the minimum lot requirement of 10 acres per lot and if Buffalo County intended to widen or pave Eagle Road. Chairperson Brady explained that there were several roads in Buffalo County that need paved, however, but the county budget could not prioritize paving roads. Mr. Robinson added that Eagle Road can hardly withstand the traffic that it has now, and to add several more houses, with two vehicles per house, that will traverse the road, is concerning.

Discussion occurred regarding an emerging development along 100th Road and Eagle Road.

Mr. Robinson concluded that he has no issues with development, but has concerns regarding the infrastructure. He thanked The Commission for their time.

Vice-Chairperson Keep declared The Commission needs to consider requiring all developments abut a paved road. Mr. Robinson thanked The Commission for their consideration.

Discussion occurred regarding the benefit of having all developments abut a paved road.

Chairperson Brady asked Mr. Carmody if the east side of the proposed development could access Odessa Road and Mr. Snow explained that is not possible based on the land layout.

Discussion occurred regarding Mr. Carmody's dirt extraction operation.

Chairperson Brady asked if anyone else wished to provide comment.

Tim Kelliher, of 9460 Avenue N, Kearney, Nebraska, stepped forward to comment. He stated that he does not believe Mr. Carmody's dirt extraction operation will obliterate Eagle Road because no one will be extracting dirt when it is raining. Mr. Kelliher asked if the two roads could be connected to access Odessa Road and Chairperson Brady explained that it was not possible, but appreciated Mr. Kelliher's thoughts.

Mr. Robinson explained that he still has concerns regarding the ability of Eagle Road to withstand the traffic uptick. Chairperson Brady explained that he appreciated Mr. Robinson's perspective, but muddy roads are part of country living. He stated that the county has done a great job of ensuring critical roads are repaired, but the budget doesn't support complete repair of every road. Mr. Robinson thanked Chairperson Brady for his thoughts, but explained that he would prefer to have The Commission require all roads to developments be paved.

Chairperson Brady closed the public hearing at 7:41 P.M.

Chairperson Brady asked if The Commission had any questions or concerns.

Secretary Wolfe thanked Mr. Carmody for the good gesture for the neighbor to the north.

Mr. Schmidt asked Mr. Carmody if there was any way to intersect the two interior roads and Mr. Carmody responded that there is no way to intersect the two interior roads.

Chairperson Brady asked if anyone on The Commission wished to speak.

Motion was made by Mr. Biehl, seconded by Secretary Wolfe, to favorably recommend the Application for Preliminary Subdivision, "Eagle Hill Estates", filed by Trenton Snow, on behalf of Brent Carmody, CEO of Carmody Farms, L.L.C, located in Part of the South Half and the North Half and Part of the South Half, situated in Section Twenty-Seven (27), Township Nine (9) North, Range Seventeen (17) West of the Sixth Principal Meridian, Buffalo County, Nebraska, to the Buffalo County Board of Commissioners.

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

Voting "Nay": None.

Abstain: None.

Absent: Stubblefield and Vest.

Public Hearing. 5(b)

Chairperson Brady opened the public hearing for Agenda Item 5(b) at 7:48 P.M. regarding an Application for Preliminary Subdivision, "Amity Hills Subdivision", filed by Craig Bennett, of Miller & Associates Consulting Engineers, P.C., on behalf of Benjamin G. Hirschfeld, Christie Hirschfeld, Harry W. Whitley III, and Correne E. Whitley, for a tract of land located in part of the Southwest Quarter of Section One (1), Township Nine (9) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

Craig Bennett, of Miller & Associates Consulting Engineers, P.C., on behalf of Benjamin G. Hirschfeld, Christie Hirschfeld, Harry W. Whitley III, and Correne E. Whitley, stepped forward to present the application. He explained that Mr. Hirschfeldt and Mrs. Hirschfeld wish to purchase a two-acre tract of land from Mr. Whitley and Mrs. Whitley. He stated that, because the proposed tract is less than 10 acres, state statute requires a subdivision as a means of completing the project.

Mr. Bennett gave a brief history on the nonconforming tracts of land in this area of Buffalo County and that they are accessed only by easements.

Mr. Bennett, then, reviewed the history of the project with The Commission. He stated that the subdivision was, first, denied by The Buffalo County Zoning Administrator, due to noncompliance. It was then, he continued, that the applicants sought relaxations from The Buffalo County Board of Adjustments. Now, he added, The Planning Commission must review the proposed preliminary plat after relaxations have been approved.

Mr. Bennett testified that the acre sizes are compliant.

Mr. Bennett explained that Mr. Whitley and Mrs. Whitley intend to reduce their nine-acre tract to a seven-point-six-four tract. That two acres, on the east end of Whitley's tract, will, then, be deeded to Mr. Hirschfeld and Mrs. Hirschfeld's ten-acre tract. Mr. Bennett explained that the Hirschfelds intend to use those additional acres for agricultural use, or grazing area for their horses.

Mr. Bennett explained that it is a two-lot subdivision, called Amity Hills.

Vice-Chairperson Keep asked if there was any intent to bring the easements up to regulatory road standards and Mr. Bennett explained he does not believe there is a way to bring them up to the standards, which require a 66-foot width.

Mr. Bennett clarified that there is no intent to construct additional residences, the intent is, only, to move property lines.

Deputy County Attorney Davis counselled the history of this project and what options The Commission can consider.

Discussion occurred regarding the roads and accesses to these nonconforming lots.

Chairperson Brady asked if anyone else wished to comment and no one spoke.

Chairperson Brady closed the public hearing at 7:58 P.M.

Motion was made by Ms. Jeffs, seconded by Vice-Chairperson Keep, to favorably recommend the Application for Preliminary Subdivision, "Amity Hills Subdivision", filed by Craig Bennett, of Miller & Associates Consulting Engineers, P.C., on behalf of Benjamin G. Hirschfeld, Christie Hirschfeld, Harry W. Whitley III, and Correne E. Whitley, for a tract of land located in part of the Southwest Quarter of Section One (1), Township Nine (9) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska, to the Buffalo County Board of Commissioners.

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

Voting "Nay": None.

Abstain: None.

Absent: Stubblefield and Vest.

Old Business

Minutes

Motion was made by Mr. Vacek, seconded by Mr. Biehl, to approve the June 20, 2024 meeting, as presented.

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

Voting “Nay”: None.

Abstain: Jeffs and Schmidt.

Absent: Stubblefield and Vest.

Motion carried.

New Business

Report on Previous Hearings

Zoning Administrator Daniels reported the review by The Buffalo County Board of Commissioners with The Planning Commission. Deputy County Davis counselled The Commission to consider reviewing The Board’s recommendations, but abstain from making revisions without proper notice. Chairperson Brady agreed.

Deputy County Attorney Davis referenced Gage County’s solar farm setback regulations. He stated that Deputy County Attorney Hoffmeister gathered the regulations for The Commission to consider. Zoning Administrator Daniels recommended The Commission take a look because she is receiving inquiry for solar farms in rural Buffalo County.

After some discussion, The Planning Commission decided to re-review the recommendations by The Board of Commissioners and reconvene with a decision in September.

Zoning Administrator Daniels notified The Commission that there was no correspondence or other business.

Next Meeting

The next meeting will be August 15, 2024, if necessary.

Adjourn

Chairperson Brady adjourned the meeting at 8:29 P.M.

Scott Brady, Chairperson
Buffalo County Planning Commission

Loye Wolfe, Secretary
Buffalo County Planning Commission