

MINUTES OF PLANNING AND ZONING COMMISSION  
SEPTEMBER 19, 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 7:01 P.M. on September 19, 2024.

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

Quorum has been met.

Also attending were: Deputy County Attorney Andrew Hoffmeister, Deputy County Attorney Josiah Davis, and Zoning Administrator Dennise Daniels. There were several 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. The public forum closed at 7:03 P.M.

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

**Public Hearing. 5(a)**

Chairperson Brady and Deputy County Attorney Hoffmeister provided a brief background of the process of the project and pr of the zoning and subdivision regulations.

Chairperson Brady opened the public hearing for Agenda Item 5(a) at 7:08 P.M. regarding revision and possible approval of the Buffalo County Zoning and Subdivision Regulations as part of the 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.

Andy Spracklen, of 14150 145<sup>TH</sup> Road, Amherst, Nebraska, stepped forward to provide testimony, on behalf of the Kearney Area Builders Association. He thanked The Commission for their work on the zoning and subdivision regulations and explained that he is a custom home builder. He stated that he, as well as the Kearney Area Builders Association, is in opposition of the following proposed regulations: all development should be along paved road, the 5-acre minimum lot requirements, and the requirements using architectural and engineering on any

structure over 5,000 square feet, and the requirements of storage facilities to minimally be 640 square feet.

Mr. Spracklen added that he and the association would prefer to maintain the 3-acre minimum lot requirement.

Mr. Spracklen testified that state law requires architectural and engineering on any structure over 10,000 square feet and would request that the 5,000 square feet requirement be enlarged to 10,000 square feet.

Mr. Spracklen added that The Kearney Area Builders Association appreciate the Agricultural – Residential 2 District (AGR 2) as presented, but was concerned that multi-family dwellings have to abut a paved road.

Mr. Spracklen added that he believes the 3-foot requirement around solar panels on roofs is not planning for the future. He added that there are now architectural shingles that are solar panels and this particular regulation causes issues for homeowners. Deputy County Attorney Hoffmeister explained that that particular regulation is required under the international fire code.

Mr. Spracklen concluded his testimony by expressing concern that the regulations, as proposed, will stifle development and growth.

Discussion occurred regarding the requirement of churches along a paved road.

Mitch Humphrey, of Buffalo Surveying Corporation in Kearney, Nebraska, stepped forward to provide testimony. He thanked The Commission for their tremendous amount of work on the proposed regulations. He testified that he is in opposition of requiring all development to occur along a paved road and the minimum lot size of 5 acres. He prefers the 3-acre minimum lot size. He stated he believed that requiring the minimum lot size of 5 acres could allow property owners to accumulate more unsightly materials, as well as take precious land from abutting farm/production lands.

Mr. Humphrey added that he believed that the Agricultural – Residential 2 (AGR) District is unclear and what the intent of the district is.

After inquisition by Deputy County Attorney Hoffmeister, Mr. Humphrey added that he agreed that residences in the Agricultural District should be four per quarter, but the 1,000 feet between residence requirement should be removed.

Mr. Humphrey continued, stating he is in opposition of requiring any use such as a church, to abut a paved road. Chairperson Brady reminded Mr. Humphrey that the county is under a strict budget and there is not a plentiful tax base to care for all the roads.

Discussion occurred regarding living in the country included dust and the clash between residential living and agricultural production.

He concluded his testimony by thanking The Commission for their time, but stated that the proposed regulations were going to stifle development, which occurs plentifully in Buffalo County.

Brad Brandt, of Brad Brandt Construction and B&B Investments at 2112 West 35<sup>th</sup> Street, Kearney, Nebraska, stepped forward to provide testimony. He thanked The Commission for their service and introduced himself as a builder, developer and designer. He stated he was in opposition of 10.22, which requires using architectural and engineering on any structure over 5,000 square feet. Mr. Brandt testified that state law requires 10,000 square feet and would request that the 5,000 square feet requirement be enlarged to 10,000 square feet.

Mr. Brandt testified that Buffalo County is in desperate need of affordable housing and the 5,000 square feet requirement as well as the 5-acre minimum lot size requirement, increases the cost of every project and makes residences less affordable.

After inquisition by Deputy County Attorney Hoffmeister, Mr. Brandt added that he is in opposition of requiring multi-family structures to occur along a paved road. He explained that he understands the county's position, regarding road maintenance and the cost associated with it, but wants The Commission be aware that some of the regulations that are proposed could stifle growth.

Mr. Brandt further added that under Buffalo County Zoning Regulations, Section 10.26, which permits agricultural exemption, is inequitable. Deputy County Attorney Hoffmeister explained that that particular provision is required by state law.

Mr. Brandt thanked The Commission for their service and time.

John Lowe of 2721 W. 24<sup>th</sup> Street, Kearney, Nebraska, stepped forward to provide testimony. Senator Lowe stated that he has lived both the city and rural life. He explained that he serves on a committee that regulates codes and urban affairs. He stated that he has fought the legislation of building codes increasing which, in turn, increase the cost of construction.

Senator Lowe testified that Buffalo County is in desperate need of affordable housing. Furthermore, he continued, according to NAFA, Nebraska is 100,000 housing units short.

Senator Lowe testified that The Commission needs to consider making it less restrictive and more affordable for the middle class to construct residences.

Senator Lowe thanked The Commission for their time.

Robert Fitzgerald of 3222 8<sup>th</sup> Avenue, Kearney, Nebraska, stepped forward to provide testimony. He explained that he is the president of the Realtor's Association for The Realtor's of Greater Mid-Nebraska, which includes Dawson, Adams, and Buffalo counties. Mr. Fitzgerald explained that he, along with a team, approached the Board of Commissioners several years ago regarding assessment procedures. He stated that the team, along with Board of Commissioners created a plan to correct any errors in the assessment process. He testified that it was an efficient and successful plan, and states that the same process could be useful in this project. He requested The Commission consider putting together a team of surveyors, builders, realtors, developers, etc. to help establish regulations that were viable for forward planning and future growth.

Mr. Fitzgerald testified that he believes requiring paved roads along developments is pricing individuals out of market. He explained that he does not believe it is equitable to require

individuals develop along a paved road and that Buffalo County is stifling growth with the proposed regulations.

Mr. Fitzgerald added that he believes the regulations themselves are confusing and difficult to understand.

Mr. Fitzgerald thanked The Commission for their time.

Ben Kinnison of 9260 Eagle Road, Kearney, Nebraska, stepped forward to provide testimony. He testified that he is a custom home builder and has been for over 20 years, as well as a realtor and developer. Mr. Kinnison explained that he had purchased, with a business partner, 640 acres at 100<sup>th</sup> and Eagle Road. He added that he lives in the general vicinity of this subdivision. He stated that he purchased the tract because he also enjoys the rural living, but also saw it as a development opportunity. He explained that he wanted to avoid the subdivision process so the area was developed in 10 acres plus lots, which would allow them to sell lots sooner.

Deputy County Attorney Hoffmeister asked Mr. Kinnison if the minimum 10 acres, to avoid the subdivision process, should be increased. Mr. Kinnison stated that it should not, and 10 is too much as is. Deputy County Attorney counselled that the 10-acre minimum is required by state law.

Mr. Kinnison stated he is opposed to the requirement of paving to all developments. He stated that with the existing housing shortage, Buffalo County is making it more restrictive and costly to construct affordable housing. He added that he understands the county is in a difficult position with the cost of roads, however. He continued, he stated he believed it would be beneficial to include surveyors, builders, realtors, and developers in the project to ensure development is happening in the correct places.

Mr. Kinnison also added that he is in opposition of the 5-acre minimum lot requirement as it increases the cost of every project and makes residences less affordable.

Mr. Kinnison inquired for the Agricultural – Residential (AGR 2) District, it states that it should be within reasonable reach of fire protection. Deputy County Attorney Hoffmeister counselled that Riverdale would be acceptable.

Mr. Kinnison thanked The Commission for their time.

Todd Milton of 6915 W. 47<sup>th</sup> Street, Kearney, Nebraska, stepped forward to provide testimony. Mr. Milton testified that he is a feedlot nutritionist. He thanked The Commission for their time. He testified that he is in opposition of the 5-acre minimum lot requirements because he believes that it will force the city individuals to move and purchase further into the county.

Mr. Milton testified that he grew up in a location with no zoning and is not well-regulated. He stated he appreciates The Commissions' efforts to regulate growth in Buffalo County.

Mr. Milton testified that he is very knowledgeable on livestock confinement operations and would like to provide comment. He said that he believes that feedlots and family farms are going

to get larger. He added that they generate jobs, tax revenue, etc. for the communities. He added that they need to be protected from the urban sprawl.

Discussion occurred regarding nuisances with livestock confinement operations.

Mr. Milton encouraged The Commission to protect agricultural and rural communities.

Mr. Milton thanked The Commission for their time.

At 8:42 P.M. Chairperson Brady called for a short break.

At 8:47 P.M. Chairperson Brady called the public hearing back to session.

Brian Stittle of 47687 776<sup>th</sup> Road, Ravenna, Nebraska, stepped forward to provide testimony.

Mr. Stittle inquired about Buffalo County Subdivision Regulations, Section 3.13, the deposit for proposed non-road improvements going from five percent of the estimated cost to one hundred percent. Deputy County Attorney Hoffmeister counselled that it has never been imposed, unless a developer is developing a park.

After inquisition by Deputy County Attorney Hoffmeister, Mr. Stittle stated that he believes the three-acre minimum lot size is sufficient and that Buffalo County should allow the developer to have reign to make the lots larger if necessary. He added that three acres should be enough for a residence and a shop.

Mr. Stittle thanked The Commission for their time.

Tim Sorenson of 5165 Long Island Road, Kearney, Nebraska, stepped forward to provide testimony. Mr. Sorenson testified that he is in support of maintaining the three-acre minimum lot size. He added that any lot size larger than three has a tendency to collect more unsightly materials and unkempt properties.

After inquisition by Deputy County Attorney Hoffmeister, Mr. Sorenson also added that he was opposed to requiring all development to occur along a paved road.

Mr. Sorenson thanked The Commission for their time.

Kacey Brandt of 3245 W. 56<sup>th</sup> Street, Kearney, Nebraska, stepped forward to provide testimony.

Mr. Brandt thanked The Commission for their work on the proposed regulations. He testified that he believes the existing three-acre minimum lot size is acceptable and is against the five-acre minimum lot requirement. He added that he has purchased land across Buffalo County to develop, but the proposed regulations restrict his future development.

Mr. Brandt also stated he was in opposition of 10.22, which require using architectural and engineering on any structure over 5,000 square feet. Mr. Brandt testified that state law requires 10,000 square feet and would request that the 5,000 square feet requirement be enlarged to 10,000 square feet.

Upon inquisition from Deputy County Attorney Hoffmeister, Mr. Brandt stated that he was against requiring all development about a paved road.

Notice requirements were discussed.

Complications with residential density and rural areas were discussed.

Mr. Brandt thanked The Commission for their time.

Jason Wozniak of 5510 E. Saddlehorse Drive, Kearney, Nebraska, stepped forward to provide testimony. Mr. Wozniak asked Zoning Administrator Daniels to show, on the projector, North Pointe Subdivision and Arbor Hills Subdivision for reference. Mr. Wozniak testified that the market dictates where individuals purchase property. He explained that Arbor Hills Subdivision has a gravel road and North Pointe Subdivision is paved. He added that less lots are being sold in North Pointe Subdivision than Arbor Hills Subdivision due to the cost. He testified that he believes having a paved road adds 30%-40% more cost to those lots, and he is opposed to the requirements of all developments accessing a paved road.

After inquisition by Deputy County Attorney Hoffmeister, Mr. Wozniak stated he is in opposition of the five-acre minimum lot size and the 1,000-foot setback requirement between residences in the Agricultural District.

Mr. Wozniak voiced concern over the livestock confinement regulations and if they were in conformance with the livestock friendly designation issued by the State of Nebraska. Deputy County Attorney Hoffmeister stated that when the original application was submitted to the State of Nebraska, the regulations that are in place now were in place then and the application was still approved.

Mr. Wozniak also stated he is opposed to the provision requiring accessory structures be permitted with a residence.

Mr. Wozniak inquired what the minimum acres is now in the Rural Conservation District. Deputy County Attorney Hoffmeister stated it is 80 acres. Mr. Wozniak stated that he believed that 80 acres is excessive.

Mr. Wozniak thanked The Commission for their time.

Chairperson Brady asked if anyone else would like to speak. No one came forward.

Chairperson Brady closed the public hearing at 9:21 P.M.

Secretary Wolfe made a recommendation that The Commission divide the regulation re-review into parts, to target areas based on the testimony from this evening's public as well as the recommendations by The Board of Commissioners. Deputy County Attorney Hoffmeister counselled that The Commission consider reviewing and sending parts of the regulations to The Board of Commissioners for review.

Deputy County Attorney Hoffmeister clarified that the testimony heard this evening was, primarily, in opposition to the minimum lot sizes and requiring all developments about a paved road. The Commission agreed.

Discussion occurred with the public outside the closing of the public hearing, regarding distancing between residences in the Agricultural District.

The Commission then discussed the necessity of 1,000-foot distancing between residences and the requirement of four single family dwelling units per quarter section, in the Agricultural District.

Deputy County Attorney recommended The Commission consider revising the rear yard setback in the Agricultural District to avoid situations with multi-sided lots and setback distances. The Commission agreed.

After discussion a motion was made by Ms. Jeffs, and seconded by Secretary Wolfe to favorably recommend further changes in addition to what was originally favorably recommended, unless stated otherwise under Buffalo County Zoning Regulations, Section 5.1, Agriculture District, to the Buffalo County Board of Commissioners:

1. Under Section 5.16 – Maintain the existing minimum acres to three (3);
2. Under Section 5.16 (2A) – Remove verbiage “...at a minimum distance of 1,000 feet between dwellings located in same quarter section...”;
3. Under Section 5.17 – Revise rear yard setback to 10 feet;
4. EXCEPT Section 5.12 (3) – Livestock Confinement Operations;
5. EXCEPT Section 5.14 (8) – Livestock Confinement Operations;
6. EXCEPT Sections 5.14 (7), 5.14 (16), & 5.14 (17) regarding certain uses to abut an existing paved road.

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

Voting “Nay”: Brady.

Abstain: None.

Absent: None.

Motion carried.

The Commission discussed the regulations under Section 5.2, The Rural Conservation District.

After discussion, a motion was made by Mr. Schmidt, and seconded by Vice-Chairperson Keep to favorably recommend further changes in addition to what was originally favorably recommended, unless stated otherwise under Buffalo County Zoning Regulations, Section 5.2, Rural Conservation District, to the Buffalo County Board of Commissioners:

1. Under Section 5.22 (1) – Remove verbiage, “...as defined in Section 3.50 and”;
2. Under Section 5.27 – Maintain the existing minimum acres to three (3);
3. Under Section 5.28 – Revise rear yard setback to 10 feet.

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

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

The Commission discussed the regulations under Section 5.3, The Agricultural – Residential District.

After discussion, a motion was made by Ms. Jeffs, and seconded by Mr. Schmidt, to favorably recommend the below revision under Buffalo County Zoning Regulations, Section 5.3, Agricultural – Residential District, to the Buffalo County Board of Commissioners:

1. Under Section 5.32 – Renumber duplicate number 9.

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

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

Ms. Jeffs amended her prior motion, seconded by Secretary Wolfe, to favorably recommend the, below, revisions, in addition to what was originally favorably recommended, unless stated otherwise, under Buffalo County Zoning Regulations, Section 5.3, Agricultural – Residential District, to the Buffalo County Board of Commissioners:

1. Under Section 5.32 – Renumber duplicate number 9;
2. Under Section 3.3130 – add the definition of “Hobby Farm”: “Operation or facility containing less than 15 animal units.”;
3. EXCEPT Section 5.32 (4) – Livestock Confinement Operations;
4. EXCEPT Section 5.34 (7) – Livestock Confinement Operations.

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

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

The Commission continued to discuss Section 5.3, Agricultural – Residential District.



Ms. Jeffs again amended her prior motion, and seconded by Vice-Chairperson Keep, to favorably recommend the below revisions in addition to what was originally favorably recommended, unless stated otherwise under Buffalo County Zoning Regulations, Section 5.3, Agricultural – Residential District, to the Buffalo County Board of Commissioners:

1. Under Section 5.32 – Renumber duplicate number 9;
2. Under Section 3.3130 – add the definition of “Hobby Farm”: “Operation or facility containing less than 15 animal units.”;
3. Under Section 5.36 – Revise rear yard setback to 10 feet;
4. EXCEPT Section 5.32 (4) – Livestock Confinement Operations;
5. EXCEPT Section 5.34 (7) – Livestock Confinement Operations.

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

Voting “Nay”: None.

Abstain: None.

Absent: None.

The Commission discussed requirements of churches and places of worship.

Vice Chairperson Keep made a motion, and seconded by Ms. Jeffs, to favorably recommend the below revisions in addition to what was originally favorably recommended, unless stated otherwise under Buffalo County Zoning Regulations, to the Buffalo County Board of Commissioners:

1. Under Section 5.14 (7) – Revise verbiage to state, “Churches and places of worship, exceeding an exterior size of 5,000 square feet, shall abut and have access to an existing paved road.”;
2. Under Section 5.34 (6) – Revise verbiage to state, “Churches and places of worship, exceeding an exterior size of 5,000 square feet, shall abut and have access to an existing paved road.”;
3. Under Section 5.44 (2) – Revise verbiage to state, “Churches and places of worship, exceeding an exterior size of 5,000 square feet, shall abut and have access to an existing paved road.”;
4. Under Section 5.52 (6) – Revise verbiage to state, “Churches and other religious institutions exceeding an exterior size of 5,000 square feet, shall abut and have access to an existing paved road;
5. EXCEPT Section 5.32 (4) – Livestock Confinement Operations;
6. EXCEPT Section 5.34 (7) – Livestock Confinement Operations;
7. EXCEPT Section 5.34 (4) – Add the word “existing”, as presented;
8. EXCEPT Section 5.34 (13) – Add the word “existing”, as presented;
9. EXCEPT Section 5.34 (14) – Add the word “existing”, as presented.

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

Voting “Nay”: Brady.

Abstain: None.

Absent: None.

Motion carried.

### **Old Business**

#### **Minutes**

Motion was made by Mr. Vacek, and seconded by Mr. Biehl to approve the July 18, 2024 meeting, as presented.

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

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

### **New Business**

#### **Report on Previous Hearings**

Zoning Administrator Daniels provided a Report on Previous Hearings. She stated that the preliminary plat, named Eagle Hill Estates, by Carmody Farms L.L.C., was approved by The Board of Commissioners on August 13, 2024.

Zoning Administrator Daniels also provided a report on Amity Hills Subdivision by Benjamin G. Hirschfeld, Christie Hirschfeld, Harry W. Whitley III, and Correne E. Whitley. She stated the The Board of Commissioners approved the proposed subdivision on August 13, 2024. She also notified The Commission that the final plat for this particular subdivision was filed and would go in front of The Board of Commissioner for final approval on September 24, 2024.

Zoning Administrator Daniels reviewed the correspondence with The Commission. She reviewed proposed plat, “Northwestern Energy First Addition”, and discussed the letters that were sent to the city of Kearney.

Zoning Administrator Daniels also reviewed proposed plat, “Woodward 46<sup>th</sup> Avenue Second Subdivision”. She requested The Commission review the proposed letter and let her know if changes need to occur.

Motion was made by Ms. Jeffs, and seconded by Secretary Wolfe to approve the proposed letter, as presented to the city of Kearney.

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

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

Chairperson Brady notified The Commission that Randy Vest has resigned from his position on The Planning Commission and The Board of Adjustment effective immediately due to personal reasons. Zoning Administrator Daniels notified The Commission that The Board of Commissioners are currently seeking a replacement.

Zoning Administrator Daniels highlighted the Kearney County Notice of Public Hearing.

**Next Meeting**

The next meeting will be October 17, 2024.

**Adjourn**

Chairperson Brady adjourned the meeting at 10:55 P.M.

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Scott Brady, Chairperson  
Buffalo County Planning Commission

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Loye Wolfe, Secretary  
Buffalo County Planning Commission