

MINUTES OF PLANNING & ZONING COMMISSION  
NOVEMBER 19, 2020  
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.

Chairman Scott Brady opened the meeting at 7:02 p.m., with a quorum present on November 19, 2020.

In Attendance: Scott Brady, Willie Keep via ZOOM, Randy Vest via ZOOM, Francis Biehl, Loye Wolfe, Tammy Jeffs, Marc Vacek. None absent.

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

Chairman Brady announced The Open Meetings Act.

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

**Special Use Permit – Motocross Track**

Chairman Brady announced item 5(a), a public hearing for Special Use Permit Application to operate a Motocross Track, filed by JRAYD, L.L.C., leased from Dorothy Farms, Inc., for property located at 29922 Grand Island Road, Pleasanton, Nebraska, 68866, described as Part of the South Half of Section 13, Township 11, Range 16 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska.

Jon Dorothy introduced himself as owner/operator of JRAYD L.L.C., DBA Pleasanton Motocross Track, part of the Nebraska Cornhusker Motocross Association series. He hosts about three motocross events a year with approximately 150 motorcycle entries.

He explained that he provides one permanent outhouse and three porta potties and two sets of bleachers to the public for the weekend of the event. He does not intend to install sewage at this location, because it is zoned Agriculture, therefore, the property is used for livestock/pasture. When race day emerges, the cattle are moved to "the pond" and a hotwire fence is erected.

Mr. Dorothy went on to explain that there are three or four on-site EMTs, with an ambulance and a side-by-side mule for the rougher terrain. He stated that there is an emergency gate along Grand Island Road and used exclusively for emergency use. Deputy County Attorney Hoffmeister and Mr. Dorothy highlighted the signs regarding entrances, waiver/insurance/helmets. Mr. Dorothy also explained that the gates are always closed and this property is private, not open to the public.

As far as a more recreational-type use, Mr. Dorothy stated that camping is allowed during the weekends of race days. The competitors and spectators are approved to arrive as early as Friday, and leave, after the races on Sunday.

Mr. Dorothy stated that the closest house is ½ mile away. The Public Address System, that is used during race days, can't be heard on the other side of the pit.

Chairman Brady asked Mr. Dorothy if it was his intent to grow the event in numbers, events, participants, etc. Mr. Dorothy answered that there was not much of a spectator crowd, but would like the event to grow.

Chairman Brady asked Mr. Dorothy about the charge to enter on race day. Mr. Dorothy stated that he charged \$5.00 to enter (for spectators).

He explained that the property has no electricity or plumbing and he does not intend to add plumbing. However, they do use generators.

Mr. Vacek asked when they would use the track. Mr. Dorothy answered that racing begins in April, but is done by October. The schedule is created somewhere between January and February.

Mrs. Wolfe asked if Mr. Dorothy intended to expand the track itself. Mr. Dorothy stated that he did not intend to expand the track as it is landlocked.

Mr. Biehl asked Mr. Dorothy what age groups are allowed to participate. Mr. Dorothy explained that they have several ranges: age four for Peewee, then school kids, college kids, 30-40-50-year old classes. In August, they offer a Vintage Race.

Mrs. Wolfe asked if the race moves forward if it rains. Mr. Dorothy stated that they have moved forward at this point, but have had to add gravel to the driveway.

Mr. Biehl asked if alcohol is allowed on the premises and Mr. Dorothy stated that spectators could be consuming alcohol, but the competitors are not allowed. He stated that races begin at 10:30 a.m. and are normally done by 3:30 p.m.

Chairman Brady asked Mr. Dorothy how long this track has been operational. Mr. Dorothy stated that they have been in business since 2017. Before that time, it was just a practice track and no event was ever hosted there.

Chairman Brady asked Mr. Dorothy if anyone has expressed concerns of this operation. Mr. Dorothy answered that no one has voiced concerns, in fact, most neighbors come to the races.

Chairman Brady asked if race days have had any law enforcement issues and Mr. Dorothy stated that he did not, and some officers actually attend.

Chairman Brady if he has had any traffic issues with the gravel roads and Mr. Dorothy stated that he did not. He said that the entrance driveway was designed to allow for multiple cars to sign the waivers. He went on to explain that competitors and spectators normally arrive around 7:30 a.m., so the only traffic is that of the racers. Mr. Dorothy explained that he normally has someone parked along the road with flashers on, to notify the traffic to proceed with caution.

Chairman Brady asked if there have been any accidents on Highway 10, with the high volume of traffic. Mr. Dorothy explained that he was not aware of any.

Mrs. Wolfe asked Zoning Administrator Daniels if she received any complaints or concerns from the public regarding this hearing. Zoning Administrator Daniels stated that she did not receive any correspondence regarding this hearing.

Mr. Biehl asked Mr. Dorothy his purpose for applying. Mr. Dorothy explained that he was sent a letter from the Buffalo County Zoning Office. Deputy Attorney Hoffmeister gave some background on the reason for the letter. There were complaints regarding another potential Motocross Track, and while researching those complaints, it was noticed that The Kearney Hub posted an article regarding this Motocross Track. After reviewing the Buffalo County Zoning Records, there did not appear to be a permit to allow this track to operate.

Chairman Brady asked Mr. Dorothy what his long-term plan was with this operation. Mr. Dorothy stated that he intended to move forward as is. He stated that the money made covers expenses and makes minimal profit.

Chairman Brady asked about a Board of Directors. Mr. Dorothy stated that there are many people involved, but he is the only member of the L.L.C. He is also the owner and operator.

Discussion occurred regarding a similar operation several years earlier.

Chairman Brady expressed that that law enforcement should be notified on race day for the safety of the public.

Deputy County Attorney Hoffmeister highlighted the conditions that were discussed and for the Planning and Zoning Commission to consider in their decision: allowance of the Special Use Permit for a Motocross Operation, with inclusion to signage for 911, no permanent accessory structures, and 24-hour notice to law enforcement.

Chairman Brady asked if there were any additional thoughts. No additional comments were made.

Chairman Brady closed the public hearing for the Special Use Permit at 7:36 p.m.

Motion was made to pass the Special Use Permit for a Motocross Track to the Board of Commissioners with a favorable recommendation, moved by Wolfe, seconded by Jeffs with the following conditions: Special Use Permit for a Motocross Operation, with inclusion to signage for 911, no permanent accessory structures, and 24-hour notice to law enforcement.

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

Voting "Nay": None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

### **Special Use Permit – Recreational/Event Center**

Chairman Brady announced item 5(b), a public hearing for Special Use Permit Application to operate Special Use Permit Application to operate a Recreational/Event Center, filed by Kinzy & Brent Carmody, for property located at 3070 Odessa Road, Kearney, Nebraska, 68845, described as Carmody Acres, Lot 1, situated in Section 33, Township 9, Range 17 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska.

Chairman Brady opened the public hearing at 7:41 p.m.

Kinzy and Brent Carmody, of 3070 Odessa Road, Kearney, NE, 68845, reviewed their intent for the Special Use Permit. Mrs. Carmody stated that they wish to use the barn, nearest to Odessa Road, for weddings and gatherings. She explained that she wished to apply for a Special Use Permit because they also live on the property, south of the barn, so rezoning the property to commercial would not be an option.

Mrs. Carmody, using the GIS aerial, explained the intent for the property and walked through the plans provided to The Commission: the awning on the west side of the barn, reception (tent rental), grain bin gazebo, and parking areas. She went on to say that, it would be ideal if guests would park in the southwest parking lot, near the existing grain bins, and walk to the barn. She stated that the area around the barn would remain fenced.

Then, via photos from The Commission's packets, she presented the inside the barn. The main floor still has the old livestock stalls and it was suggested to leave the stalls intact, to allow for a future vendor or craft show. The loft, which is where weddings would be held, was reviewed. She explained that they use white Christmas lights for the main lighting of the area.

Chairman Brady asked the applicants about future work on the barn. Mrs. Carmody stated that the barn's exterior would need to be repainted and they intended to add an awning & patio on the west side, but want to leave the building as is. Mr. Carmody revealed that the barn was built in the 1920's and that the building has been well maintained for 100 years. The applicants have had multiple contractors provide bids for the future work and during that bid process, the applicants requested a walkthrough of the building. The contractors indicated that the barn is "overbuilt" for their intent. Deputy County Attorney Hoffmeister asked how many houses were closely located to the property and Mrs. Carmody stated that the closest was right across the road, to the east. That neighbor is her sister-in-law, who supports the idea.

Chairman Brady asked if the applicants intended to provide climate control in the building. Mrs. Carmody stated that their intent is grounded on seasonal use. At this time, the applicants wish to maintain the original condition of the barn. Mr. Carmody agreed with Mrs. Carmody that they do not wish to put too much money into the project if it does not prove to be successful.

Chairman Brady asked what kind of sanitary options the applicants provided. Mr. Carmody explained that luxury porta potties were considered. He stated that an additional septic system may need to be added on property.

Discussion occurred regarding which entrances, north or south would be used.

Deputy County Attorney Hoffmeister asked the name of the business and Mrs. Carmody stated 'Knobel Barn'. Mr. Carmody provided a brief history of the property and explained that the owners who had constructed the house, had the last name of 'Knobel', and were well to do in their time.

Chairman Brady asked the applicants what their intent was regarding liquor licenses. Mrs. Carmody stated that renters would apply for their own liquor license. She stated that it could be future project for Knobel Barn, but not at this point in the process. Discussion occurred regarding the requirements of a liquor license.

Chairman Brady asked what the applicants have considered for guest/traffic counts. Mrs. Carmody stated that she anticipates between 200 – 300 people, however, does not wish to allow more than 350 people, with present allowance for 350 parking spaces.

Chairman Brady addressed Deputy County Attorney Hoffmeister and asked if Odessa Road was a county-maintained road. Deputy County Attorney Hoffmeister confirmed.

Deputy County Attorney Hoffmeister requested that law enforcement be notified and Chairman Brady agreed. Mrs. Wolfe advised The Commission of a similar property, called "The Barn", near Hastings, Nebraska, with a similar purpose.

Chairman Brady expressed concern regarding a large gathering of people, alcohol and driving; he believed it would be beneficial to notify law enforcement. Discussion among members ensued if law enforcement should be notified. Mr. Carmody added that taxi services could be provided, as they had a Kearney address.

Vice Chairman Keep stated that he thought it was advantageous to have the applicants residing near the property. He stated that he liked the location and the project as presented.

Chairman Brady closed the public hearing for the Special Use Permit at 8:15 p.m.

Motion was made to pass the Special Use Permit for a Recreational/Event Center to the Board of Commissioners with a favorable recommendation, moved by Biehl, seconded by Vacek, with the following conditions: recreational use as reception/gathering place, concrete pad with awning on the west side for future plan, gazebo (grain bin), 24-hours advanced notification to law enforcement, and signage for 911 at the north and south entrances.

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

Voting "Nay": None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

### Code Amendment

Chairman Brady announced item 5(c), a public hearing Zoning Regulation code amendments of Permitted Special Uses under Section 5.34 of the Agricultural Residential District, and Personal Use Solar Arrays, AND a Subdivision Regulation code amendment of Block Requirements under Section 4.06.

Chairman Brady opened the public hearing for the Code Amendment removal of Mini-Storage, under Section 5.34 of the Agricultural Residential District, at 8:20 p.m. Deputy County Attorney Hoffmeister discussed circumstances regarding this proposed amendment. Chairman Brady closed the hearing at 8:24 p.m.

Chairman Brady opened the floor to The Commission for discussion.

Motion was made to pass removal of Mini-Storage, under Section 5.34 of the Agricultural Residential District, to the Board of Commissioners with a favorable recommendation, moved by Vacek, seconded by Biehl.

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

Voting "Nay": None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

Chairman Brady opened the public hearing for the Code Amendment addition of solar arrays as a provision allowed by Special Use Permit, under Section 5.34 of the Agricultural Residential District, at 8:26 p.m. Deputy County Attorney Hoffmeister discussed the purpose of the solar array "catch-all", after the July 9, 2020, Planning and Zoning Commission meeting.

Chairman Brady closed the hearing at 8:30 p.m. and opened the floor to The Commission for discussion.

Motion was made to pass the addition of solar arrays as a provision allowed by Special Use Permit, under Section 5.34 of the Agricultural Residential District, to the Board of Commissioners with a favorable recommendation, moved by Wolfe, seconded by Biehl.

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

Voting "Nay": None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

Chairman Brady opened the public hearing for the code amendment for block requirements under Section 4.06, of Subdivision Regulations, at 8:33 p.m. Deputy County Attorney Hoffmeister referenced the proposed plat of The Greens at Prairie Hills, and discussed principle for the proposed code amendment.

Chairman Brady closed the hearing at 8:40 p.m.

Chairman Brady requested clarification from Deputy County Attorney Hoffmeister of this amendment, and Deputy County Attorney Hoffmeister stated that the new amendment is changing the language to state that Section 4.06 is not applicable, except in certain situations.

Motion was made to pass the amendment of language for block requirements under Section 4.06 of Subdivision Regulations, to the Board of Commissioners with a favorable recommendation, moved by Wolfe, seconded by Jeffs.

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

Voting “Nay”: None.

Abstain: None.

Absent: None.

Motion carried.

No opposition to the change.

### **Old Business**

### **Minutes**

Motion was made by Jeffs, seconded by Vacek to approve the minutes of the July 9, 2020 as presented.

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

Voting no: None.

Abstain: None.

Absent: None.

Motion carried.

### **Report on Previous Hearings**

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

Cynthia Pawloski Rezone was approved by Board of Commissioners July 28, 2020, &

Solar Array Amendments under 3.3125, 5.32 & 5.33 were approved by the Board of Commissioners on July 28, 2020.

## *New Business, Correspondence & Other Business*

### *ETJ Subdivisions Correspondences*

Zoning Administrator Daniels presented the submitted ETJ proposed plats from the City of Kearney: Butler Addition, Tech One Third Subdivision, Oak Park Center Second & Millennial Estates Fourth Addition and any annexations associated with said proposed plats.

She also provided Dawson County Code Amendments that went in front of their Board of Commissioners, on October 15, 2020.

Deputy County Attorney Hoffmeister reviewed the City of Kearney proposed annexations, situated in Section 28, Township 9 North, and Range 15 West of the 6<sup>th</sup> p.m., and located at Highway 10, East 56<sup>th</sup> Street, and Airport Road.

### *Next Meeting*

The next meeting will be conducted December 17, 2020, if needed.

### *Additional Thoughts:*

Deputy County Attorney informed The Commission of a new topic for The Planning and Zoning Commission to consider: accessory buildings and allowable locations. He stated that the Planning Commission would need to review this topic soon due to enforcement complications with the current regulations.

Mr. Vest requested that Zoning Administrator Daniels review a property, Tax ID 240059000. This parcel of land was one with complications, having two front yards. Mr. Vest stated that he had concerns regarding the ability to build a structure with a dominant “front yard” and minimal rear yard. Deputy County Attorney Hoffmeister reviewed some options The Commission could consider for “front yard” construction code amendments.

Zoning Administrator Daniels thanked Mrs. Wolfe, Mr. Vacek, and Mr. Vest for their recent reappointments to The Planning and Zoning Commission, for another 3-year term.

Chairman Brady requested an update from Zoning Administrator Daniels regarding the recent search for two additional members of The Commission. Zoning Administrator Daniels stated that she has prepared an application for appointment due to minimal interest from the public to serve. She planned to provide the draft at that next Planning and Zoning Commission meeting and would appreciate The Commission’s review and feedback. Chairman Brady stated that he believed the eastern half of the county (Shelton/Gibbon) area is under-represented on The Commission. Zoning Administrator Daniels suggested an advertisement in the Shelton Clipper to generate interest.

### *Adjourn*

Chairman Brady adjourned the meeting at 9:15 p.m.