

MINUTES OF THE
KEARNEY COUNTY PLANNING COMMISSION
July 13th, 2021

Notice was published in the local paper. The agenda was kept continuously current at the office of the Kearney County Zoning Administrator.

A meeting of the Kearney County Planning Commission was called to order by Chairman John Kuehn in the Assembly room of the Courthouse in Minden, Nebraska Kearney County at 8:03 pm on July 13th, 2021.

All proceedings hereafter shown were taken while the meeting was open to the attendance of the public and in accordance with the Open Meeting Act.

Roll Call:

Members Present: John Kuehn, Kevin Raun, Tom Anderson, Jody Casper, Patty Lundeen

Members Absent: Terry Buettner, Malcom Dornhoff, Jody Casper, Dawn Thompson, John Harris

Also, present: Kearney County Zoning Administrator Joseph Anderson and Kearney County Attorney Melodie Bellamy

Chairman John Kuehn asked if everyone had a chance to look over the minutes from the previous meeting on May 10th, 2021. After reviewing minutes Patty Lundeen made a motion to approve the minutes with typographical corrections seconded by Jody Casper.

Aye: John Kuehn, Kevin Raun, Tom Anderson, Jody Casper, Patty Lundeen

Nay: NONE

Members Absent: Terry Buettner, Malcom Dornhoff, Jody Casper, Dawn Thompson, John Harris

Kearney County Attorney Melodie Bellamy Stated that she had meet with Joseph Anderson Kearney County Zoning Administrator and Mr. Coy Clark attorney representing Jeff Ryan before the meeting and that Mr. Clark had a packet to provide to the board where they believe that there was a issue with proper notification for the public hearing.

Mr. Clark presented packet which contained photocopies and asked that they be entered as Exhibits #1, #2, #3. Mr. Clark referred to Exhibit #1 as a letter to one of the landowners that was post marked 07/08/2021 and stated that this was not 10 days prior to the meeting as Kearney County Subdivision regulations states, "at least ten (10) days before the Commission public hearing" and requested that no action would be taken on this application for subdivision.

Chairman John Kuehn stated that after reviewing the packet and consulting with County Attorney and Zoning Administrator that since there was many people at this meeting that they would continue with the public hearing to allow people to speak, but not take any action on this application at this time.

Chairman John Kuehn asked for a motion to open public hearing to hear comments on application for Subdivision by Malcom & Nichole Dornhoff. Patty Lundeen made a motion to open public hearing, Kevin Raun seconded.

Aye: John Kuehn, Kevin Raun, Tom Anderson, Jody Casper, Patty Lundeen

Nay: NONE

Members Absent: Terry Buettner, Malcom Dornhoff, Jody Casper, Dawn Thompson, John Harris

Public Hearing opened at 8:12 pm

County Attorney Melodie Bellamy made a statement that due to conflict-of-interest Malcom Dornhoff and Dawn Thompson would not be acting as board members since they are the applicant and agent of the applicant for this matter and that they would be treated as members of the public.

Trenton Snow surveyor for Malcom and Nichole Dornhoff - opened by showing copies of the survey that he had prepared stating that there is a total of six (6), five (5) acre lots on 2 different quarter sections in Section 28 Township 8 North Range 13 West. And that he believes that this Preliminary Plat meets all the zoning requirements for the RC (Rural Conservation District).

Dawn Thompson agent for Malcom and Nichole Dornhoff - stated that she would like to wait until after anyone spoke in opposition to their application so she might be able to address any concerns.

Coy Clark Attorney for Jeff Ryan - stated that there are requirements in the Kearney County Subdivision regulations that are required to be on plat maps and that the presented plat map does not show some of those requirements. And that there was a general lack of information on how this development would be completed. Mr. Clark also reference Exhibit #3 a petition signed by neighbors and landowners that protested any change of zoning classification other than AG-1 (Agriculture District).

Kim Johansen – stated that she had several questions and concerns about this development

What kind of houses would be built and how would that add value?

Would there be a limit to the number of outbuilding allowed on the property?

How many driveways would this add?

Would these lots be allowed to be used to build storage units or other uses?

Would there be restrictions to not burning trash? Or how would trash be managed so there was not trash blowing into neighboring property?

Concerns that use of firearms would be a potential to harm people or property in the vicinity

Would animals be allowed in this development? Concerns that dogs would run and cause problems with neighbor property.

Would adding six (6) homes to this land create a ground water issue?

Concerns that this is Highly Erodible land and that this is not a good place to build homes.

Would these properties be able to be properly served by emergency services?

Have there been other subdivision like this in Kearney County? and how have they been managed and policed to make sure development is following rules and regulations?

Michael Ryan – Stated that Kearney County will not allow six (6) driveways onto 40 Rd so there is going to have to be an access or service road and that said road needs to be on the plat map and questioned who is going to own and maintain this road?

Dawn Thompson agent for Malcom and Nichole Dornhoff – Stated that with her profession as a realtor she sees that there is a very real need for housing in Kearney County and that Malcom and Nichole seen they could help with that need. Ms. Thompson was glad to hear some of the concerns and questions and hopefully she would be able to address some of them. Ms. Thompson presented a packet and asked that it be entered as Exhibit #4 - #11. Ms. Thompson referred to Exhibit #8 Sample Restrictive Covenants and stated that Malcom and Nichole Dornhoff are also landowners and will continue to own the land around this development, so they do have some of the same concerns and are taking steps to protect themselves and others. And that these covenants are not final cause that wanted to hear concerns from neighbors and work to address those concerns.

Ms. Thompson asked if the board would look at Exhibit #4 – #7 which showed a few examples of other areas in Kearney County that would have a similar situation to this development and the number of driveways, she also stated that they are working with Kearney County and Kearney County Roads Department to determine what is the best for everyone on the number of driveways and there locations and that it is a work in progress.

Ms. Thompson then read Exhibit #9 a letter from landowner that was in favor of the development.

Ms. Thompson then read Exhibit #10 a message from landowner that was in favor of the development

Nichole Dornhoff Applicant – wanted to reinstate that Malcom and she would still own the property around the development and that they did not want to have any of this development be a detriment to themselves or Kearney County. Ms. Dornhoff stated that their family makes their living off agriculture and are involved with several different ag programs and activities. Ms. Dornhoff stated that the last thing that they want to do is harm their neighbors or agriculture.

Michael Ryan – wanted to note that the landowner in Exhibit #9 was a relative to Malcom and Nichole Dornhoff.

Phil Johansen – stated that the landowner in Exhibit #9 has not lived in Kearney County since 1976. Mr. Johansen then asked if there was going to be a homeowner's association? And who would enforce the covenants?

Nichole Dornhoff – addressed that that landowner in Exhibit #9 has not lived in area since 1976 but remains very active in the area and is very conscious about protecting agriculture in Kearney County.

Phil Johansen – Stated that not all landowners got a letter about public hearing. Zoning Administrator Joseph Anderson stated that he used the Assessors website to obtain the list of landowners and address. County Attorney stated that anyone that did not receive a letter and felt that they should have needs to give their information to zoning administrator Joseph Anderson to make sure that they get notified of future meetings.

Henry Jurgens – Stated that he felt that it was a conflict of interest that Malcom Dornhoff was a member of the Planning Commission and they would be able to have a vote on his own application. County Attorney Melodie Bellamy stated that for this application Malcom Dornhoff and Dawn Thompson are not members of Planning Commission and that they do not have a vote on this issue.

Mr. Jurgens also stated that he was having a hard time hearing some of the conversation and that if the board had microphones that might help.

Matt Dornhoff – had concerns about the added traffic on 40 Rd with the addition of these six (6) lots and stated that his mother's house is right across the road to this development and that they fear that this development would take away from some of the pleasant scenery and peace and quiet that they currently enjoy.

Kris Johnson – Purchased home north of proposed development in 2017 and has worked to fix up the property and has concerns about keeping the area a nice place to live. Mr. Johnson also stated that they have some nitrate problems at their house and has concerns whether this development would create more of a problem with ground water if approved. Mr. Johnson also felt that this is not the best place to be built and questions whether someone would even be able to put in a basement.

Jeff Ryan – had concerns with the lack of information and did not feel something should be passed unless there was more information and with the possible landowner notification issue felt that this was a project that was not very well planned out just trying to be pushed through without proper procedure.

Dawn Thompson – Stated that there are some things that are not finalized yet like the driveways and covenants because they wanted to hear what the concerns are and then move forward to be able to address issues that come up through the process of approval.

Nichole Dornhoff – also stated that yes there are things that were not finalized because they wanted this development to not cause any harm to anyone and wanted to hear concerns before finalizing covenants.

Chairman John Kuehn asked if there was anyone else that wanted to speak? And with no one else wanting to speak John Kuehn asked for a motion to close public hearing. Kevin Raun made a motion to close public hearing, Patty Lundeen seconded.

Aye: John Kuehn, Kevin Raun, Tom Anderson, Jody Casper, Patty Lundeen

Nay: NONE

Members Absent: Terry Buettner, Malcom Dornhoff, Jody Casper, Dawn Thompson, John Harris

Public Hearing closed at 9:05 pm

Chairman John Kuehn restated that with the possible notification issue that the Planning Commission would not act on this application at this time and that there will be another public hearing scheduled before the board would take any action on this application.

County Attorney Melodie Bellamy asked if we wanted to go ahead and set that meeting date at this time.

After discussion it was decided that the next meeting to have a public hearing on this issue will be August 2nd, 2021 @ 8:00 pm.

Chairman John Kuehn asked if there was any other business that needed to be discussed. With no other business Tom Anderson made a motion to adjourn at 9:10 pm seconded by Patty Lundeen.

Aye: John Kuehn, Kevin Raun, Tom Anderson, Jody Casper, Patty Lundeen

Nay: NONE

Members Absent: Terry Buettner, Malcom Dornhoff, Jody Casper, Dawn Thompson, John Harris

Next Meeting will be August 2nd, 2021 @ 8:00 pm