

August 8, 2017

The planning commission meeting was called to order by chairperson, Terry Caddy at 7:04 p.m. to hear and perhaps rule on the zoning change request for Sublot 1 of Tax Lot 6 situated in the SW quarter of the SW quarter of Section 28, Township 10 North, Range 9 East of the 6th Principle Meridian, Eagle, Cass County, Nebraska.

Roll call – present: Terry Caddy, John Surman, Dale Ellwanger, Doug Cummins, Clifford Schildt, and Willa DiCostanzo. Absent: Randy Todd. No secretary present.

Caddy opened the public meeting for public comments. He requested introductions as to who requested the above zoning change. Nicholas and Corrine Beetison were indicated as the owners of the parcel with Darrick Rademacher as their primary spokesperson. Darrick indicated that all points had been made on the application letter submitted to Nick Nystrom. The Village engineer had assisted in reviewing the preliminary plat and although a few questions remained, nothing should prevent the rezoning request.

Tim Kenny/Sara Kenny of 21902 A Street which is a 40-acre property immediately to the east of the rezoning property had submitted a written letter detailing reasons to deny the rezoning request. Tim was present and listed 5 reasons to deny the change within Eagle’s Extraterritorial Jurisdiction (ETJ). This area is within the region that Eagle may annex in the future. The points were:

- 1) Protect interests of Village for future growth. Sites would be inconsistent with existing lot sizes. Lagoons or septic facilities, and single lane gravel driveways would be problematic for annexation down the road.
- 2) Plat does not conform with the comprehensive plan – it is essentially “spot” zoning and should be disallowed on that point alone.
- 3) The infrastructure/street will not conform to emergency vehicle use. There is essentially no planned turn around and on a single lane road, the emergency vehicles might become entrapped to where they cannot get back out and will deprive Eagle of their usage. The proposed Home Owners Association (HOA) will not have enough residents to collect enough funds to properly maintain the gravel lane and drainage off it will become an issue.
- 4) The lot size will be detrimental to the tax base of nearby existing properties.
- 5) The rezoning request and submitted plat will have a negative impact on future undeveloped properties with Eagle’s ETJ – named a 120-acre farm and the Eagle “tree farm”.

DENY it for these points with an emphasis on “spot zoning” is not allowed under our current Comprehensive Plan 2.02.402

Dick and Barbara Sittner, who lived immediately south of the proposed rezoning property, spoke next. They had moved to the “rural” setting area and are now concerned that such a development would not protect the value of their property. They would see an increase in the “noise”. They also had concerns on the gravel lane and essentially its impact on emergency vehicle access whether it be a heart attack or a pregnancy. They

already have drainage/runoff issues from this property and this development would only add to them.

Gary and Sue Buck addressed their concerns next. They also are worried about water runoff. Please note that Mr. Rademacher was initially insistent that a water drainage study was not needed for this property. They did not think the proposed Tristen Road and Trinity Drive would handle the traffic. Finally, the effects on their property valuations are unknown. Gary had already used straw to try to control erosion from the existing property/buildings.

Terry Caddy was unsure on need for drainage plan. Village engineering was not needed. The proposed private street would be taken care by a HOA and they would have to handle its maintenance. No replat Mylar had been submitted per Nick Nystrom per Mr. Rademacher. A loop in the current road on the proposed Lot 1 of Block 1 would be an easement and remain as the home owner's property, thus not decreasing the lot size from its 3.00 acres. Trinity Drive runs north/south water would flow to the sides. We were told the engineer saw no problem with this but water runoff may or may not be an issue.

Tim Kenny again emphasized this would be spot zoning as defined in our Article 2 definitions whereby the action would promote the owner and not the general public. Caddy stated we would consider this after the end of the public hearing.

Dick Sittner had concerns about the HOA and if they could have no increase in water flow and maintain adjoining property values with a controlled building on the lots within the rezoning plat. The HOA had to be comprised of current residents of which the Beetison family would qualify.

The public hearing was adjourned at 7:40 p.m.

The planning commission meeting opened at 7:40 p.m. Caddy indicated where the open meeting act regulations were posted. He asked if there was a motion to change the zoning from Ag (Agriculture) to RE (residential Estates) and had such motions made. The future use map indicated the use was to be for single family housing and RE would be permitted in this zone. He then asked if any board members had concerns with the request.

John Surman had concerns with the roadways and water runoff. He also had concerns of allowing the lagoons if the ground would not "perk" for the septic tanks. He pointed out that he was one of the area residents who approached the County Commissioners about the South Meadows development and to disallow a "lagoon"/wetland sewer treatment system that close to our existing sewer plant.

Caddy stated that he did not think the roads or houses would change the water runoff much. If large sheds (40' X 70') were built on all lots, then that would change the runoff. Generally, acreages have sheds added to them and that might create issues. A photo of the land area was distributed to all board members now by Mr. Rademacher that showed

the roads would run primarily along an existing ridge. The photo also showed that The Sittner property had a lagoon on the east side of the property.

Dale Ellwanger was worried that this action could set up a precedent for future zoning requests whereby adjacent landowners might want the same considerations. He was also concerned about safety issues and not hooking on to the existing rural water.

Doug Cummins thought spot zoning could be an issue but was unsure of its impact.

Clifford Schildt had no questions on the matter.

Willa DiCostanzo had issues on rescue calls in this development and similar points already raised.

Tim Kenny again reiterated that this was spot zoning and that similar issues had been raised 7 to 9 years ago when the Lowery applicants had tried to split the property. He believed Mike Wentzel was the chair of the Eagle Village board at the time. It was denied then and should be denied now as well.

At 8:10 p.m., Terry Caddy requested a 5-minute recess in which to make legal contact with the Village attorney on spot zoning.

At 8:16, Caddy reconvened the meeting. He had not been able to make contact with the attorney and thus had no answer for the spot zoning question although he felt it was not spot zoning. He asked if the Commission had any actions they wanted to consider.

Willa DiCostanzo made a motion to table any actions until a future meeting. Clifford Schildt seconded the motion. Caddy called the roll for votes. Yes – Willa, Clifford, Dale, and John. No – Doug. Abstained -Terry.

Prior to our next meeting which will be held as soon as it can be arranged, Caddy requested the Beetison party submit a written HOA covenants so the commission would know how it addresses the concerns raised tonight including what the structures of the housing units would be comprised of as well as size and secondary buildings. Caddy also requested a water drainage study be done.

Meeting adjourned at 8:24 p.m.

Respectfully submitted by John Surman