

Eagle Planning Commission

August 17, 2017

The Eagle Planning Commission met in regular session at 7:00 PM on August 17, 2017 with Terry Caddy, John Surman, Clifford Schildt, Douglas Cummins, Dale Ellwanger & Willa DiCostanzo present. Randy Todd was absent. The Agenda items listed thereon were sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. The Chair, at the beginning of the meeting, informed the public about the location of the posted current copy of the Open Meetings Act. Chairperson Caddy named the three (3) areas where the agenda was posted as follows: Village Clerk's Office, Eagle Fire & Rescue Department and Eagle State Bank.

Motion by DiCostanzo, second by Schildt, to approve minutes as typed for the previous meeting. Voting: Ayes – 6. Motion carried.

PUBLIC HEARING for the purpose of hearing testimony concerning a zoning change and amendment of the Eagle Zoning Map from AG (Agricultural) to RE (Residential Estates) for the following described property: Sublot 1 of Tax Lot 6 located in the Southwest Quarter of the Southwest Quarter of Section 28, Township 10 North, Range 9 East of the 6th Principal Meridian, Eagle, Cass County, Nebraska, and the consideration of a Final Plat submitted by Civil Design Group, Inc. pertaining to said property.

Chairperson Caddy opened the Public Hearing at 7:00 p.m. to discuss hearing testimony concerning a zoning change from AG (Agricultural) to RE (Residential Estates) for Sublot 1 of Tax Lot 6 located in the Southwest Quarter of the Southwest Quarter of Section 28, Township 10 North, Range 9 East of the 6th Principal Meridian, Eagle, Cass County, Nebraska, and the consideration of a Final Plat submitted by Civil Design Group, Inc. pertaining to said property. The Planning Commission stood at ease until 7:12 p.m. to review additional documents received from the Village Attorney, property owner and neighboring property owners. Caddy acknowledged receipt of a Drainage Summary prepared by Civil Design Group that was requested at the last public hearing and asked for a brief summary. Darrick Rademacher (Civil Design Group) said he performed a hydrology analysis based on a change in land use from Agricultural to Residential Estates. The soil in the area is Type B, which is a very impervious soil that creates a lot of runoff to begin with. Rademacher said as expected there will be a slight increase in runoff; based on a 100-year event, the basin draining to the southwest shows an increase of just above 5% and the basin draining to the southeast shows an increase of 1.3%. In the study, Rademacher assumed for impervious area a 2,500 square foot house, one 5,000 square foot shed and 1,000 feet of concrete in front of each driveway. Caddy said the Village Engineer did not initially require a Drainage Study because the drainage pattern was not being changed in a significant manner. Tim Kenny (21902 A St.) said the public has not had enough time to review the Drainage Summary or proposed covenants that were submitted at tonight's meeting and he would request an additional public hearing on behalf of the neighboring property owners. Kenny felt it is impossible for Civil Design Group to make a determination on drainage

because there is no reference to the existing structures on adjacent properties; change of grading, points of discharge and building envelopes are not taken into consideration. Richard Sittner (21744 A St.) asked if the proposed north/south road is the peak and whether a topographical survey was performed. Rademacher said a topographical survey was not performed and the study was based on aerial photography and imagery; typically with small acreages there is not a lot of altering of the topography. Kenny said the point of discharge would have been easier to determine if a building envelope was created; some existing structures are already impacted by runoff without this proposed subdivision and it'd be easier to determine the effects on them if it was known where buildings were going to be constructed. Sue Buck (1060 S. 214th St.) said if buildings are erected on top of the terraces this would greatly increase the amount of runoff on her property that exists downhill from this proposed subdivision. Rademacher said the existing drainage channel is very well maintained and he doesn't envision anyone changing the grade of these terraces. Kenny said prohibition against maintenance and management of the terraces should be included in the restrictive covenants as well as a specific building envelope. Rademacher said the building envelope is a building permit process rather than a final plat process. Kenny said this proposal is a "spot zoning" development in the middle of an existing property. Rademacher said he does not personally believe this is "spot zoning" due to the residential nature of the area. Kenny said his purpose is to get the public's issues on the table so the Planning Commission is aware and liable for the decision's they make. Kenny acknowledged 4 of the 23 protest items raised at the August 8, 2017 Planning Commission were addressed and requests the remaining 19 protests are addressed before moving on the applications. The items remaining include application inaccuracies, safety and security problems for emergency service personnel, future economic burdens on site residents and the Village of Eagle, impacts on tax base of existing properties and impact of precedent on future applications from undeveloped land in the extraterritorial jurisdiction. Kenny said the application cannot be considered because the Village of Eagle has not previously studied and adopted any engineering, design or land use guidelines for the impacted quarter section or half section as required under the Village's Plan & Regulations; studies and adopted current land use plans for the impacted area are a required prerequisite for considering any application. Kenny said the consideration of this application is being conducted without the Village or the applicant's direct consultation with the adjacent property owners and the proposed Beetison plat drawing and application package is inaccurate and incomplete as to adjacent ownership, existing easements, location of proximate building and location of existing drainage channels. Moreover, the application is incomplete with respect to the specifications and standards for the design and construction of streets to Cass County or Village road construction specifications, water and sewer hookups and the license and authority for utility and future transportation easements. Kenny said the applicant's street design is in complete violation of the Village's subdivision regulations and published Village Transportation Plans and, as such, are not authorized and, as a result, dangerous for public use and the use of Village emergency personnel. Kenny suggested consultation with the Cass County Sheriff, State Fire Marshall and Village Volunteer Fire & Emergency Services before any consideration is made. Caddy said a lot of the points being made concern the Village of Eagle corporate limits rather than the extraterritorial jurisdiction. Kenny said under State of Nebraska law, the Planning Commission is only allowed to make zoning decisions inside the extraterritorial jurisdiction for the benefit of the Municipality. Kenny said the Eagle Transportation Plan map has a specific designation for major arterial streets and trails within this proposed subdivision that is not being given consideration. Buck asked if the existing gravel driveway will be utilized by

all property owners in the proposed subdivision. Caddy said yes. Kenny said according to the Institute of Traffic Engineers, the daily traffic volume on this road would be 40 trips per day on a single lane driveway that extends 713 feet long. Buck asked if anyone has studied the impact of taxes in the area because she bought her property 8 years ago zoned agricultural. Caddy said Buck's property is not being considered for a change of zoning. Rademacher commented on the easement remarks and said the easements received from the title company are indicated on the final plat and the only recorded easement was for Rural Water. Kenny said in Book 45, page 700 at the Cass County Register of Deeds office is a conservation easement granted to Timothy R. Kenny, binding on errors and successors, that runs the entire eastern length of the property with respect to the conservation of the trees in the area. Rademacher said he'd be happy to provide this information to the title company. Kenny said he'd like to know why the Village of Eagle doesn't have a similar vision with subdivisions like South Meadows, which has paved streets and municipal sewer, when it is within a half mile of this proposed subdivision. Surman said South Meadows was outside of Eagle's extraterritorial jurisdiction at the time of its creation and was under control by Cass County. Kenny asked what the Village of Eagle's interest is in having a substandard subdivision when within one half mile there is a perfect example of how a subdivision should be done. Caddy asked if Kenny believes this property will be annexed sometime in the next 20-30 years. Kenny said absolutely. Caddy said this would require moving through a large acreage and Eagle Nursery to annex this subdivision. DiCostanzo asked why Kenny feels this subdivision is substandard. Kenny said because there is no designation with respect to the quality of streets and contains safety concerns due to the size of streets that would not be allowable in the Village of Eagle. Caddy said the Village of Eagle contains a high density population where this subdivision does not. Kenny said this property contains barriers to future annexation much like the subdivision east of Eagle Lake where the streets are too narrow and unsafe. Caddy asked why the streets at Beetison subdivision are unsafe. Kenny said because they are too long and narrow and there is no guarantee a Homeowners Association will fulfill their maintenance responsibilities. Kenny asked about farm animals at these proposed properties. Beetison said his proposed covenants allow a maximum of three horses per lot. Kenny said three horses would turn the properties into dirt and mud causing a "horse ghetto". Beetison said the South Meadows covenants allow for two horses and his lots would contain twice as much property. Kenny said South Meadows is hooked up to the Rural Water system and the use of private wells at the Beetison Subdivision will have the tendency to impact the water table in the area. Kenny added if a Homeowners Association is to be considered, the neighboring property owners request a consultation with the leadership of local HOA's to obtain evidence about actual road funding requirements, maintenance issues and budgeted expenses; this would verify the reasonableness of the applicant's HOA rules, budget and prefunding reserve requirements to be paid in advance by the developer. Kenny said the approval of this subdivision as presented gives the inability to refuse any subsequent developer to come in and request a substandard subdivision. Cummins asked for more detail on Kenny's concerns with the length of streets. Kenny said the probability of an HOA adding gravel to the length of these streets on a regular basis is low. Cummins asked what the difference is between these streets and a mile of country road. Kenny said there wouldn't be 40 trips per day on the country road. Caddy said many country roads are in excess of 40 trips per day. Caddy asked each individual to list their number one concern with the proposed subdivision. Buck said water runoff. Sittner said drainage and horses being allowed. Kenny said the Village of Eagle turning into hundreds of acres of substandard subdivisions. Caddy said the Planning Commission is following the

guidelines in the Comprehensive Development Plan to the best of its ability and many of the concerns being brought up at the meeting are not even indicated in the book. Kenny again brought up his concerns with the future arterial streets in the area. Rademacher said the Planning Commission has a good opportunity tonight to secure 50 feet of a roadway as part of a private roadway with a blanket easement. Kenny said it might be more appropriate to obtain a 100 foot easement. Rademacher said the property owner to the north could dedicate the other 50 feet in the future. Kenny reviewed the section "Achieve Eagle" in the Comprehensive Development Plan with the Planning Commission. Caddy read excerpts from the Planning Commission minutes dated December 1, 2008 when the subdivision of this property was last considered.

The public hearing was closed at 8:27 p.m.

Motion by Surman, second by Cummins, to approve the recommendation of zoning change from AG (Agricultural) to RE (Residential Estates) for Sublot 1 of Tax Lot 6 located in the Southwest Quarter of the Southwest Quarter of Section 28, Township 10 North, Range 9 East of the 6th Principal Meridian, Eagle, Cass County, Nebraska. Voting: Ayes – Surman, Cummins, Caddy, Schildt. Nays – Ellwanger, DiCostanzo. Motion carried.

Motion by DiCostanzo, second by Cummins, to approve the recommendation of Final Plat submitted by Civil Design Group, Inc. pending review of contingencies. Voting: Ayes – 6. Motion carried.

Motion by Caddy, second by DiCostanzo, to direct the Board of Trustees to review the following contingencies: Organizational HOA guidelines/by-laws, permissible livestock, possible road safety concerns, installation of cul-de-sac at the 90-degree road connection, length of roads, review of Drainage Summary (particularly to the west), possible 100 foot easements around the area where future land use shows arterial streets and any concerns the fire department or Cass County Sherriff's Department may have. Voting: Ayes – 6. Motion carried.

The meeting was adjourned at 9:07 p.m.

Terry Caddy
Chairperson

Nick Nystrom
Village Clerk