

Village of Eagle
Planning Commission Meeting Minutes
May 31, 2023 Start Time 7:00 P.M.
Eagle Fire & Rescue Department- 705 S 1st Street, Eagle, NE

The May 31, 2023 Planning Commission Meeting was called to order at 7:00 P.M. by Chairman, Terry Caddy. The chairman made the announcement that the Open Meetings Act is posted on the east wall of the Fire Hall meeting room and that the meeting announcement and agenda were posted at the announcement boards located at the Eagle Park, Village of Eagle Office, and the Village of Eagle Fire Department.

Roll call of Planning Commission Members present included: Terry Caddy, Justin Davison, Ashley Moyer, Randy Todd, Austin Beck, Willa DiCostanzo as well as an alternate of John Surman. Robin Sinner was absent. Additional attendees included: Terri Todd, Raymond Althouse, Cory Worrell, Steven Hyde, Donna Hyde, Verda Umland, Stephen Mossmon, Hope Sass, Camille Sass, Hannah Rowell, Josh Rowell, Martin Pelster, Joseph Flaxbeard, Robert Todd, Barbara Johnston.

The first item of business was to have Public Hearing for the purpose of hearing testimony concerning an application for Final Plat and Subdivision Application submitted by MDC Eagle One, LLC, Pertaining to +/- 60.565 acres locate in part of Tax Lot 22 and part of Tax Lot 35, in the E1/2 of Section 19, Township 10 North, Range 9 East of the 6th P.M., Cass County, Nebraska.

To start the discussion Joseph Flaxbeard, Civil Engineer of Lamp Rynearson on behalf of McCune Development and Martin Pelster of Croker, Huck law firm who is the developments attorney. The development would be 18 3 acre lots and have incorporated the requests of the Village for paving requirements and road stub outs added. Joseph addressed that he's aware that there were opponents in the audience probably stemmed from using water wells for the lots as they're platted for three acre parcels. The original plan was for the lots to be on well and septic. A well driller went out and did two test drills that weren't fruitful. There are two other options they are looking into water supply options: 1) Eagle's water supply 2) Cass County Rural Water District. McCune's have also decided to have a second opinion on the test wells.

Joseph stated the request for the evening was a recommendation of final plat approval conditional on water system. The water supply would be selected, installed and approved prior to any issuance of any building permits. Depending on the source of water supply they are in talks to form an SID to supplement the cost of the water.

The opponents from the west neighborhood addressed their concerns as:

Josh Rowell residing to the west of the development His land backs up to the development along the east of his property. Him and his neighbor both have lakes and both of their springs come from the hill to the east of their home where the development is set to be. When he

originally built his home he attempted to drill a well and got 280' down and got maybe 1.5 gallons per minute. They ended up having to get rural water and they weren't even sure he would be able to get on at that time because they didn't know if the main would handle it. He's concerned about drilling holes to get ground water when we have limited ground water. They are also putting in silt retention ponds along his property line which not only cause a concern for mosquitos but also that withholds water from getting to his pond which is already 12' low due to the current drought. Him and his neighbor to the south need all the watershed they can get for their ponds. It appears based on the maps they will have silt retention ponds along his neighbors property line as well. They reside in one of the few sections that remains in grass. He has concerns of what the development will due to the wild life. This is a small community and wildlife is apart of that. People like to take their children hunting this will start pushing wildlife out further and further with acreages. His family has kept their property in CRP to maintain wildlife. Another concern is traffic at the intersection of 202nd and Hwy 34 adding possibly four cars to each of the new 18 homes. His main concern is water as he talked with Cass County Rural water and they said they aren't sure they can handle the load of 18 homes on their supply. He asked about if this would affect his water since he's further down than this development and CCRW stated they'd need to talk with the engineers to ensure they wouldn't have water loss. His other concern is the cost of the lots and the covenants of the homes in the development which poses concern for increased tax values due to these higher priced acreages. He's also concerned of his liability if people were to come on his property and get hurt.

Hannah Rowell also residing to the west of the development, addressed her concern of the developers lack of professionalism in regard to communication and not communicating about fence lines. Her next concern is that the spot next to the development is one of her favorite places and it's going to be gone makes it heartbreaking. She trail rides with her horses back next to the development on her property and she feels she won't be able to go back there and enjoy it because there may be dogs barking or kids yelling at her. She's lived on the property her entire life and is concerned about people not having water due to wells on the development as well as 18 homes having septic tanks that are leaching down onto her property is gut twisting and disgusting. She's bothered that she's not seeing any investigation into this property. She also has concerns of the traffic this will add. It's hard for her that they've destroyed the land already by cutting roads but they don't even have water. What will they do if they can't get water to the development. Do they just leave the roads as they are with a destroyed habitat?. She was unaware of the development until she saw the roads that were cut all the way to her fence.

Camille Sass also residing to the west of the development: Feels the same way as Josh and Hannah Rowell. She also wasn't aware of the development until she walked back and saw the roads cut in. She is concerned for the wildlife as they roads are cut in and has taken away the wildlife's natural ecosystem and travel patterns. She feels that other areas make more sense for a development and doesn't feel this location makes sense. She inquired about the traffic study and what will happen with the increased traffic at the intersection of 202nd and Highway 34, as it's been an unsafe intersection her entire life.

Cathy Sass addressed her concern for lack of communication about the development and would've liked to have say on the development.

Hope Sass stated she has owned 50 acres to the west and has concerns of the impact to the ponds as well as the septic systems being placed on the properties diminishing the quality of land and ruining the ambiance of area.

Steve Mossman is an attorney representing the west neighbors and/or the Sass family. He stated that approval shouldn't be recommended of the subdivision unless it is in compliance with our ordinance and our comprehensive plan. His first question is that according to the Sass' they didn't receive notice in regards to the preliminary plat and he noticed in our ordinance in section 3.03.08 the developer is required to do a title search and provide all of the names and addresses and he assumes that's for the purpose of mailing notices to the neighbors within 300 yards of the development and none of them received notices. He also noticed in the regulations that section 3.03.22.4 a subdivision of this type has to contain water distribution. He understands why this plat doesn't contain a water distribution plan after hearing from the developer. The Village Clerk provided Josh with all the documents they had as of the prior week and he didn't see any security bond and escrow agreement between the Village and the Developer. The next item was in section 3.05.28 and in section 7.03 and 7.04 the two latter sections state they have to provide security bond and escrow up to 110% of the development. He presumes they do that in case they don't move forward with the development. He also didn't see any security agreement approved by the Village attorney which is another requirement. He provided pictures for perspective showing work that was done as of Saturday last week. Steve's understanding that discussion of his group and Cass County Rural Water that they can't provide the water without a significant investment of up to \$1.5 million and there's not an actual plan to get water from Cass County Rural Water #2. He heard tonight they decided to talk to the Village of Eagle about water supply. We've heard today that the developer is going to get a second opinion on wells and based on Josh's testimony today that would technically be the third opinion. There isn't sufficient drinking water from wells at 280' deep in this area to supply 18 houses and three acre lots. He thinks that until the planning commission has a plan approved by somebody to provide water to these three acre lots we shouldn't give approval of the final plat. He feels it would be pre-mature for the planning commission to recommend approval to the Village Board on this final plat when there's no water.

Joseph Flaxbeard responded to the opposition stating that based on the lack of water which was addressed at the beginning. He's been on the phone with Cass County Rural Water District and if this is the route they would go to this would be funded by the SID. With that there's a way to get water here with Cass County Rural Water District as there's a main at 202nd and the main just needs to be upsized. If the SID partners with Cass County Rural Water that would solve the problem of water supply. CCRW#2 is discussing with their engineer JEO on what would be needed for an upsized. Detention ponds are dry detention and not retention. The purpose of them is to detain the water to ensure the rate of runoff flow rate would mimic what the flow rate is with the current grassland that's there now. Comments in regard to the wildlife and environmental impact addressed as they are approved through a permit that was granted

by the department of environment and energy. They have the proper permitting to cut the roads in and the developer accepted the risk of starting that construction prior to final plat approval. Further, the Corp of Engineers has provided an approved a 404 permit for the culvert crossing the existing drainage way in the wetlands. Traffic was initially talked about with the Village when they came with a more dense development and now that we are discussing 18 lots it doesn't increase the traffic as much on the adjacent roads. The issues with Septics leaching: any septic in the state of Nebraska has to follow NDEEE guidance and permitting at a minimum and whatever the municipality that has jurisdiction. The developer won't have any part of this as that will be the responsibility of the homebuilders pulling a separate septic permit with their sub-contractors. Quick note on the notices at preliminary plat and this is something that Joe found out later at the time of preliminary plat. The comment about the subdivision water distribution plan based on these being 3 acre+ plus lots it is allowed for them to have personal wells. The comments about the security bond/escrow would come into place after final plat approval and they would supply the security bond/escrow for the public improvement section.

Hope Sass asked if there's a way to keep the new acreage owners from parcelling the three acre lots down into one acre lots.

Marty Pelster addressed this by stating the restrictive covenants will cover that the lots can't be split. The developer wants to have this development to be a nice development. The projected home values to go on these lots are projected to be \$700,000-\$800,000 and something that's good for the area. This will bring in students to the area and income to businesses in the area granted it will change the area but sometimes it's good. If the Village doesn't grow it could die. As for the security bond and escrow he assumes that will be apart of the subdivision agreement once they sign that and they will need a better handle on development costs to set this up. An SID is planned to help finance the improvements and will probably only finance the water improvements. They believe the final plat is consistent with the preliminary plat already approved by the board and requests we give approval of the final plat. If it needs to be subject to the water plan we can do that.

Hannah Rowell asked if they are willing to negotiate a field fence along her property line.

Josh Rowell is curious about the statement of 18 families of traffic not being that much. He then stated that if it's not that much then 18 families bringing in revenue then isn't that much either. He's concerned with traffic because when he first moved to his property there wasn't that much traffic and now there is a lot more traffic on his road. His main concern for not having the development going in is because he doesn't want to lose the small town feel. He bought his land for a reason so he could have small town feel and this is taking away from that.

Hannah Rowell stated that the tax burden on neighbors is going to be crazy. The land isn't meant to be developed and it is in CRP because it can't be farmed. She feels they're being priced out by having high end acreages placed on her land and also with the roads ending right

at her property line from the development it's like they're going to want to develop her land next.

Joseph Flaxbeard addressed: His commentary on traffic should be clarified. When they do a traffic study on a more dense development what they're looking for is does any increase in traffic warrant additional public improvements to the arterial roads. Percolation tests were conducted on two lots and they're showing results within the NDEEE requirements. Road connections on the outside of the site were within the Village of Eagles subdivision requirements. A note on the valuations on the improvements and the lot are estimated at a cost of \$750,000-\$850,000.

Ray Althouse lives on 202nd street and with 18 houses you figure five passes of each car everyday. The dust on the road to the north is so bad you can't even be outside sometimes.

Barbara Johnston addressed that there's a bit more work to be done with Cass County Rural Water District #2 to get water access to the development.

Barbara stated she had a couple minor comments on the plat itself that have been addressed for the bearings and distances not matching the legal description for the north and west property boundaries, as well as the southwest boundary which would like to be corrected on the final version. On the paving plan there was an inconsistency of the detail of the ditches in the grading plan. A note was referenced to a curb which they won't have because there will be ditches instead of curbs. The bulk of the questions were in the draining plans: They are the rain gardens and how they'll be used. One thing she noted was they'll function more as detention basins so she's curious what's being changed in that from the original plat.

Joseph explained that a rain garden is going to be a detention basin and no longer rain gardens. They're incorporating an under drain in each of them. They are treating the pre-construction based on the grass that's there and not the agriculture it's zoned for. They are accommodating the increase of runoff by having these detention basins to slow the runoff increase. The design is essentially little pockets where the rain will collect and there's notches cut out for when there's a high flow storm the water can bleed out of there and for lower volume of storms the hope is for it to just soak in. They will simply hold the water back so in a peak flow the water flow wouldn't increase and have a drain/dry time of 24-48 hours. These will be located within easements of peoples yards with appropriate plants for those conditions.

Maureen Caddy asked Barbara about the only drainage easements on the plat being in the ditches and asked if there is any area that needs to have a drainage easement to make sure there isn't any building or construction on it other than the ditches. Barbara stated the rain gardens will need to be in an easement. Joseph stated they talked about it and showed where they'd be and where they'll want a drainage easement on the culvert. Maureens secondary question is how do we ensure that maintenance will be ensured on these rain gardens. Joe stated the intent would be to have an easement and access easements to the back lots so the HOA has access to maintain the rain gardens.

Maureen's understanding that the subdivision agreement that came in was very skeleton and she wants to ensure that the village won't have a lot of public improvement to take care of if we ever annex the development into town. When they went through preliminary plat it didn't indicate an SID. Last year a notice for a rezone of a more dense population was sent out and now it's a rezone to a residential estates which is a requirement of at least an 1.5 acres. We're at 3 acres per lot now because that's what is required to have a personal well and septic. Until a week prior we weren't anticipating having water lines coming into the subdivision so we'll need a utility exhibit coming in since they now won't be on wells. All improvements are to go in prior to us having any building permits pulled. If the Village planning commission wants to proceed tonight there would have to be a lot of conditional approvals because we don't have a clean application right now as we're waiting on the water problem specifically.

Maureen addressed that there was discussion of whether lagoons should be allowed in this subdivision. The perc questions was brought up due to the possibility of lagoons. There have been two perc tests done but we have 18 lots, so she's not sure if that's a concern. We don't have a regulation on whether lagoons or septic's have to be required within the jurisdiction.

Joseph Flaxbeard stated they only did two perc tests for feasibility sake. Based on how the state regulations are written the perc tests need to be in a certain spot and would be needed when they apply for installation. There are multiple options prior to doing a lagoon.

Hannah Rowell made a statement for her neighbors to the south of her as they are on vacation. They did mention their disapproval of the development and the concern for the already low capacity of their well that is currently on their property and is very old.

Teri Todd made a comment that there are a lot of exceptions right now and doesn't feel we can make a decision on this as there are a lot of conditions that need to be addressed.

Maureen Caddy noted for the record that she has a copy of the planning commission notice that was published, the publication notice in the Voice News that was published by the Village Clerk, the application for the final plat, technical checklist, final plat submittal letter, development cost estimate, all drainage studies, the final plat, the sediment and erosion control exhibit, paving exhibit, storm sewer exhibit, post drainage map exhibit, pre drainage map exhibit, drainage study, project manual, comments by the Lower Platte South NRD, and certification from Village Clerk for all public hearing notices. The notice was sent to around the perimeter of the lot. The review letter from the Engineer and the review letter from the attorney.

Joseph Flaxbeard stated he needs a copy of the NRD comments. Maureen stated she would get a copy to him.

Randy Todd understands the concerns of the neighboring land owners and this is why he's on the planning commission. He wanted those to know he did not vote to change the land from

Ag. He stated that we are trying to plan a community here and he was opposed to the original plan of the high density development.

Hannah Rowell stated they didn't get any notice of the rezoning and she had previously called the Village and inquired and the lot directly adjacent wasn't being developed at that time.

Public Hearing was adjourned at 8:13pm

Meeting break was taken and a then reconvened at 8:22pm.

The next item of business is Discuss/possible action: Approval/recommendation of a Final Plat and Subdivision Application located in part of Tax Lot 22 and part of Tax Lot 35, in the E1/2 of Section 19, Township 10 North, Range 9 East of the 6th P.M., Cass County, Nebraska.

Randy Todd stated that they need to deal with where they will be getting the water from before we can vote on an approval of the final plat and added SID.

Terry Caddy stated some things to think about. If they go with Rural Water they probably won't offer any fire protection. If the development is ever annexed in we would have to have fire protection. If the water comes from Eagle then it would require fire protection and there would have to be some type of agreement as to whether we own the water system or not. If we look at future development we'd have to have the system looped incase there was a water issue not all 18 homes would be without water. If we offer water and/or sewer the people in the development would have to pay 175% of what the people in the Village pay. There are major costs either way and as of yet they haven't come to the Village to discuss the Village providing water.

Barbara stated for connecting to Eagle water it would have to be looped. We would be able to provide fire protection. If they need pressure to irrigate then a booster station would be required.

Terry Caddy stated if they plan on irrigating and plan on using Eagle's water generally any usage over 10,000 gallons a month you're going to pay very high water bills. You're looking at paying \$300-\$500 a month. The Village implemented this to have water conservation.

Willa DiCostanzo asked how long Maureen needs to review the restrictive covenants and if she has a lot of questions.

Maureen stated she can review it fairly quickly and we don't know where we're ending up with some of the terms. Such as having an SID which we then wouldn't annex for quite awhile as they'll need the SID to fund the development improvements.

Maureen then asked if we have enough information to move forward? Are we prepared to adopt final plat. The question for the board right now is are you prepared to vote for

recommendation of adoption of this final plat and this plan as it sits right now and list 15 conditions we need to add on or are we needing something that's a little closer to being done before you make the recommendation to the Village Board.

Willa stated that once they have ironed out the water situation, SID, and/or lagoons or any other pieces we need to know about as we look at a comprehensive plan of how we'd want to annex this in the future or if that's not going to be in the plan.

Marty asked what the criteria is needed to reserve a date for a future meeting.

Terry Caddy stated the items we need to set a date for a future meeting are: where will the water come from, where will water lines be, who will own, are there easements for the lines?

Joseph stated that if we're going to layover the decision what are the terms to lift the layover and get this back in front of us.

Maureen Caddy stated we need the final plat updated with the requests from Barbara and Maureen.

Terry Caddy stated as soon as you figure out where water supply is coming from and where lines will be placed we can move forward. Possibly have a video conference once they think they have majority of items figured out prior to getting back in front of the planning commission.

Willa motions to layover the decision until we get information from their engineers about the plans for water supply and design, the utility exhibit for adding those lines, and any updated declarations or covenants that would respectively identify the questions that are pending per water and the SID. Ashley Moyer seconded the motion. The motion was carried with all in favor.

Davison- yes

DiCostanzo- yes

Moyer- yes

Todd- yes

Beck- yes

Surman- yes

Caddy- yes

The next item of business is Approving minutes as typed from the previous meeting. DiCostanzo motioned for approval. Moyer seconded. The motion was carried with all in favor.

Davison- yes

DiCostanzo- yes

Moyer- yes

Todd- yes

Beck- yes

Surman- yes

Caddy- yes

Seeing no further items of business the Planning Commission Meeting the meeting was adjourned at 9:00 pm.

A recording of this meeting was made and is available at the Village of Eagle Office.