

**BUTLER COUNTY PLANNING COMMISSION**

Scheduled Meeting, July 11, 2023  
Butler County Courthouse-4<sup>th</sup> Floor  
205 W. Central  
El Dorado, Kansas 67042

**MINUTES**

The scheduled meeting of the Butler County Planning Commission began at 7:00 p.m. on Tuesday, July 11, 2023 on the 4<sup>th</sup> Floor of the Butler County Courthouse located at 205 W. Central in El Dorado, Kansas.

**Chairman:** Jeff Varner

**Members Present:** David Greene Jr., Marsha Francis, Kermit Frey, Jeremy Sundgren, Bryce Flaming & Andy Jones

**Members Absent:** Kristi Sullivan & Jim Ralston

**Guests:** Colette Green, Diane Arnold, Ed Arnold, Nathan Stottler, Erin Lynch, Terry Lowmaster, Troy & Sara Dawson, Shelly Black, Judy Ferren David Ferren, Barry Black, Ella Highbarger, Mary Lou, Kevin Brownlee, Ronda Eisehauer, Mike Eisenhauer, Mike Duntz, Gary Harms, Mike Cooper, Harrison Luna, Jared Wren, Alan Anderson, Roger Cutsinger, Ray Connell, Marlin Thiessen, Ben Hobbs, Don Conway, Ty Kaster, Nena Kaster, Steve Johnson, Mark & Nancy Gravesen, Milo McClure, Mary Obrien, Theresa Thomas, Carol Walters, Mark Jones, Darla Jones, Arlene Showalter, Tyler Fitz, Kristi Sommers, Alan Busenitz, Melvin Busenitz, Brent Foster, Taylor Eisenhauer, Will Carpenter & Jacob Kohler.

**The meeting was called to order and a quorum was declared**

**Approval of the July 11, 2023 Planning Commission Agenda**

**Motion:** Marsha Francis

**Second:** Kermit Frey

Approved

**Approval of the June 6, 2023 Planning Commission Meeting Minutes**

**Motion:** Marsha Francis

**Second:** Andy Jones

Approved

**Old Business:**

**New Business:**

**PL-23-09** – Public Hearing to consider Case # PL-23-10 request for a Mortgage Lot Split with APO submitted by Sam Showalter on property located at 9350 SE Turkey Creek R. Leon, KS

**Applicant/Owner:** Sam Showalter

**Agent:** Roger Cutsinger

**Location:** 9350 SE Turkey Creek Rd. Leon, KS

**Discussion:** Staff recommends approval

**Staff:** This is a request for a 10+/- acre Lot Split with a 30+/- acre APO on property zoned AG-40. The Split would not be considered detrimental to the area. The property contains 95+/- acres.

Staff did not receive any concerns from the adjoining landowners or within the 1,000' notification area.

**No further questions or comments were made.**

**Motion: Kermit Frey**

**Second: Bryce Flaming**

**Action: Approved 6-0**

**To Be Heard before the BOCC on July 25, 2023 @ 9AM**

**PL-23-11-** Request for a Mortgage Lot Split with APO submitted by JE Pearce Family Trust on property located at 14622 NW 40<sup>th</sup> St. Benton, KS

**Applicant/Owner: JE Pearce Family Trust**

**Location: 14622 NW 40<sup>th</sup> St. Benton, KS**

**Discussion:** Staff Recommends approval

**Staff:** This is a request for a 7+/- acre Lot Split with a 73+/- acre APO on property zoned AG-80. The Split would not be considered detrimental to the area.

Staff did not receive any comments for or against the request.

**Motion: Kermit Frey**

**Second: Marsha Francis**

**Action: Approve 6-0**

**To Be Heard before the BOCC on July 25, 2023 @ 9AM**

**PL-23-12-** Request for a Homestead Lot Split with APO submitted by CRT Farm Trust on property located at 0 SW 170<sup>th</sup> St. Douglass, KS

**Applicant/Owner: CRT Farm Trust**

**Location: 0 SW 170<sup>th</sup> St. Douglass, KS**

**Discussion:** Staff recommends approval

**Staff:** This is a request for a 10+/- acre Lot Split with a 70+/- acre APO on property zoned AG-80. The Split would not be considered detrimental to the area.

Staff did not receive any comments for or against the request.

**Motion: Marsha Francis**

**Second: Bryce Flaming**

**Action: Approve 6-0**

**To Be Heard before the BOCC on July 25, 2023 @ 9AM**

**PL-23-13-** Request for a Mortgage Lot Split with APO submitted by Robert McCulloch on property located at 215 NW Diamond Rd. Towanda, KS

**Applicant/Owner: Robert McCulloch**

**Location: 215 NW Diamond Rd. Towanda, KS**

**Discussion:** Staff recommends approval

**Staff:** This is a request for a 10+/- acre Lot Split with a 40+/- acre APO on property zoned AG-40. The Split would not be considered detrimental to the area.

Staff did not receive any comments for or against the request.

**Motion: Kermit Frey**

**Second: Marsha Francis**

**Action: Approve 5-0 with one member abstaining**

**To Be Heard before the BOCC on July 25, 2023 @ 9AM**

**RZ-23-12-**Request for a Zoning Change from AG-80 to RE on property located at 20249 SW Hopkins Switch Rd. Douglass, KS

**Applicant/Owner: Jeff Runyan**

**Agent: Self**

**Location:** 20249 SW Hopkins Switch Rd. Douglass, KS

**Discussion:** Staff recommends approval

**Staff:** This is a request for a Change in Zoning from AG-80 to RE on property located at 20249 SW Hopkins Switch Rd. Douglass. The applicant owns 80+/- acres which if approved would allow him to split the property into 2 tracts. One tract to include his house and the pond, approximately 55 acres, and the other to contain 25 acres of grassland.

The change in zoning would not be detrimental to the area as there would be similar sized tracts within the immediate area.

Staff did receive comments from one landowner located within the 1,000' notification area but his concern was addressed when explaining that to split the property anymore would require a Plat and that would require all landowners

**No further questions or comments were made.**

**Motion: Marsha Francis**

**Second: Kermit Frey**

**Action: Approved 6-0**

**To Be Heard before the BOCC on July 25, 2023 @ 9AM**

**RZ-23-13-** Request for a Change in Zoning from AG-40 to RR on property located at 12494 SW 190<sup>th</sup> St. Douglass, KS

**Applicant/Owner: Mike Eisenhauer**  
**Agent: Self**  
**Location: 12494 SW 190<sup>th</sup> St. Douglass, KS**  
**Discussion: Staff recommends approval**

**Staff:** This is a request for a Change in Zoning from AG-40 to RR on property located at 12494 SW 190<sup>th</sup> St. Douglass. The applicant owns 40+/- acres which if approved would allow him to split the property and construct a new Single-Family residence on one of the parcels. It was noted that the property contains a large amount of Floodplain which will limit any further development than what is proposed.

The change in zoning would not be detrimental to the area as there are numerous tracts of RR in the immediate area.

Staff did receive comments from one landowner within the 1,000' notification area expressing concern about the further development of the property. Once Staff showed them the Floodplain and explained that splitting the property into more than 2 tracts would require the approval of Plat he was ok.

**No further comments or questions were made.**

**Motion: Marsha Francis**  
**Second: David Greene, Jr.**  
**Action: Approved 6-0**  
**To Be Heard before the BOCC on July 25, @ 9AM**

**RZ-23-15-** Request for a Change in Zoning from AG-40 to RE on property located at 1555 SW Butler Rd. Benton, KS

**Applicant/Owner: Mike Hinnenkamp**  
**Agent: Roger Cutsinger**  
**Location: 1555 SW Butler Rd. Benton, KS**  
**Discussion: Staff recommends approval**

**Staff:** This is a request for a Change in Zoning from AG-40 to RE on property located at 1555 SW Butler Rd. Benton, KS. The applicant owns 48+/- acres which if approved would allow him to split the property and would also match the zoning within the immediate area.

The property is located on a paved County Arterial Road and within the Urban Growth Area of the County..

The change in zoning would not be detrimental to the area based upon its location

Staff did not receive any comments from any landowners within the 1,000' notification area.

**No further comments or questions were made.**

**Motion: Bryce Flaming**  
**Second: Marsha Francis**  
**Action: Approved 6-0**  
**To be Heard before the BOCC on July 25 @ 9AM**

**Public Hearing to consider Amendments to the Butler County Zoning Regulations as it relates to Large Scale Solar Facilities.**

**Staff:** The time has come for the review and possible approval of Draft 4 of the proposed Amendments to the Butler County Zoning Regulations as it relates to Large Scale Solar Facilities. As you are aware both the Planning Commission and the Board of County Commissioners have been discussing proposed Reg's since the beginning of April. After two Work Sessions we are now to a point where we feel the time to make a recommendation for the passage of the Regulations is upon us.

Highlights of the Regulations include Maximum Project Area (2,500 acres), US Solar Facilities shall not be located any closer than 3 miles from any city limits, except for Island Annexations, must meet Set-Back regulations as it relates to Public Roads, Property lines, Residential Dwellings and AG or Residential Accessory Structures, Road Maintenance Agreements between the Applicant and the respective Township and Butler County and the exclusion of any US Solar Facilities within the area commonly known as the Flint Hill Ecoregion and also known as the Tallgrass Heartland.

Those are just a few of the major issues that will need to be addressed during the submittal of a request for a large scale solar development.

With the growth of the Solar Industry, on a worldwide basis, it is important that the County be prepared and direct the growth to an area that will have minimal impact to the citizens of Butler County.

Staff's recommendation is that the Planning Commission approve the Amendments to the Butler County Zoning & Subdivision Regulations as it relates to Solar Facilities as presented.

After some discussion Staff noted that a Representative of Hecate Energy El Dorado as well as OneEnergy had provided a couple of submittals that they were wanting the Planning Commission to take into consideration. Mr. Harrison Luna, w/Hecate, and Mr. Nathan Stottler, w/OneEnergy, had both presented documents that contained comments suggesting potential changes to the Draft 4 Regulations that they were asking the Planning Commission to take under advisement prior to adoption of the current Draft.

Highlights of their comments were as follows:

- 1) Consider including an “Exception to the Regulations for the removal of Tilled Ground that is currently located in the Tallgrass Ecoregion”
- 2) Remove the requirement for “Ownership of all Mineral Rights on the Project Site”.
- 3) Extend the Timeframe for approval of a “PPA and IA Agreements”.
- 4) Other minor changes as it relates to grammatical items.

The following individuals also spoke expressing concerns with future projects and other items related to the adoption of the Amendments:

- |                    |   |
|--------------------|---|
| 1) Ray Connell     | 2520 Chase El Dorado, KS                  |
| 2) Colette Greene  | 759 NE State Rd. 177 El Dorado, KS        |
| 3) Terry Lowmaster | 857 NW 90 <sup>th</sup> St. El Dorado, KS |
| 4) Sara Dawson     | 2704 110 <sup>th</sup> St. Florence, KS   |
| 5) Brett Foster    | 10673 NW Trumball Burns, KS               |
| 6) Mason Greene    | 588 NE Cole Creek Rd. El Dorado, KS       |
| 7) Marlin Thiessen | 14358 NW River Valley Rd. Burns, KS       |
| 8) Gary Harms      | 14318 NW County Line Rd. Whitewater, KS   |
| 9) Kristi Sommers  | 11548 NW Shumway Burns, KS                |
| 10) Ed Arnold      | 1040 NW 108 <sup>th</sup> St. Burns, KS   |

After hearing all comments and concerns, on the advice of Legal Counsel, the Planning Commission Tabled the potential adoption of the proposed Amendments to the Zoning and Subdivision Regulations to August 11, 2023 @ 7PM.

**No further questions or comments were made.**

**Motion: Marsha Francis**

**Second: Jeremy Sundgren**

**Action: Approved 6-0**

**With no further Items to come before the Board, the meeting was adjourned.**

