

*Kearney, Nebraska
November 19, 2012
8:00 a.m.*

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 8:00 a.m. on November 19, 2012 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, and Bob Lammers. Absent: Bruce Lear. Michael Morgan, City Manager; Michael Tye, City Attorney; and Suzanne Brodine, Assistant City Manager/Development Services Director were also present. Some of the citizens present in the audience included: Craig Bennett, Mary Jane Skala.

Notice of the meeting was given in advance thereof by publication in the Kearney Hub, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the City Council and a copy of their acknowledgment or receipt of such notice is attached to these minutes. Availability of the Agenda was communicated in the advance notice and in the notice to the Mayor and City Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

ANNOUNCEMENT

Mayor Clouse announced that in accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for review and is posted towards the back of the Council Chambers.

REZONING NORTHWEST OF 4TH AVENUE AND TALMADGE STREET

Items 3, 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett (Applicant) for Paul and Linda Younes (Owner) to rezone from District M-1, Limited Industrial District to District C-2, Community Commercial District property described as a tract of land being part of Government Lot 5 and Government Lot 6 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (northwest of 4th Avenue and Talmadge Street) and consider Ordinance No. 7774. Planning Commission recommended approval.

The applicant is requesting approvals to develop a 4.96 acre tract of land for commercial purposes located northwest of 4th Avenue and Talmadge Street. The applicant is requesting approval of rezoning, subdivision plat, and annexation. The proposed use is a future motel and/or restaurant. The site is located in CRA Area #8 and tax increment financing has been approved, a portion of which will be used for the westward extension of Talmadge Street.

The Applicant is requesting rezoning from District M-1, Limited Industrial District to District C-2, Community Commercial District for the 4.96 acre tract. C-2 zoning is a good fit for this area with C-2 zoning existing to the south and M-1 zoning on the other three sides that will eventually be rezoned for commercial use as well. The proposed

zoning is in conformance with the Future Land Use Map of the City Comprehensive Development Plan which shows this property designated as "Mixed Use 2."

One note in regards to zoning regulations has to do with maximum height of structures. In C-2 zones, the maximum allowable height is 45 feet and the proposed four-story motel, if constructed as anticipated, will exceed this height by 17 feet at 62 feet in height to the tallest point. This height deviation should be explicitly recognized in the motion.

A two lot subdivision to be known as Younes Center Addition is proposed. The Preliminary Plat does not go to City Council, only to Planning Commission. Staff anticipates that the Commission will approve the Preliminary Plat at the November 16, 2012 meeting. The lots front on Talmadge Street and proposed 4th Avenue constitutes the east side of the subdivision while proposed 6th Avenue is on the west side. These proposed streets are stubbed 250 feet and 366 feet north from Talmadge Street respectively. The west lot, Lot 1, contains 2.54 acres and Lot 2 contains 1.58 acres. A Public Works Plan has been provided. Improvements will be financed by improvement districts. Existing overhead utility lines that bisect the site are going to be relocated. An existing sanitary sewer line is also going to be relocated. A Subdivision Agreement will be prepared.

This property is contiguous to the corporate limit and will be served with public improvements. Therefore, in keeping with the Annexation Policy approved by City Council, the property shall be annexed as "An Addition to the City of Kearney."

Craig Bennett from Miller & Associates presented this matter to the Council. This is a plat for a two lot subdivision with 6th Avenue on the west and 4th Avenue on the east. The request is to rezone from District M-1, Limited Industrial District to District C-2, Community Commercial District. The site is hinged on the north and east by M-1 zoning. The final plat is contiguous to City limits and is requested to be annexed into the City limits.

Council member Lammers asked about the height of the proposed building, as there had been some discussion about the height of the building at the Planning Commission meeting. Mr. Bennett stated this building will be 4-story which is similar to the existing motel buildings on the south side of Talmadge Street. In order to beat the frost, they are working on a full development plan at this time and started on it earlier before they could submit it.

There was no one present in opposition to this hearing.

Moved by Kearney to close the public hearing Application submitted by Craig Bennett (Applicant) for Paul and Linda Younes (Owner) to rezone from District M-1, Limited Industrial District to District C-2, Community Commercial District property described as a tract of land being part of Government Lot 5 and Government Lot 6 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (northwest of 4th Avenue and Talmadge Street) and introduced Ordinance No. 7774 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be

permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to close the hearing and suspend the rules for Ordinance No. 7774. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7774 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Buschkoetter that Ordinance No. 7774 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7774 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

FINAL PLAT FOR YOUNES CENTER ADDITION

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett (Applicant) for Paul and Linda Younes (Owner) for the Final Plat for Younes Center Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 5 and Government Lot 6 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (northwest of 4th Avenue and Talmadge Street) and consider Resolution No. 2012-207. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2012-207** approving the Application submitted by Craig Bennett (Applicant) for Paul and Linda Younes (Owner) for the Final Plat for Younes Center Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 5 and Government Lot 6 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (northwest of 4th Avenue and Talmadge Street). Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lammers. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2012-207

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Younes Center Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of Government Lot 5 and Government Lot 6, Section Eleven (11), Township Eight (8) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly

described as follows: Referring to the Southeast Corner of the Southeast Quarter (SE 1/4) of said Section 11 and assuming the East line of said Section as bearing N00°37'12"E and all other bearing shown hereon relative thereto; thence N00°37'12"E on said East line a distance of 875.38 feet to the North line of Talmadge Street extended Easterly; thence N87°20'30"W on said North line a distance of 777.58 feet to the ACTUAL POINT OF BEGINNING, said point being the Southwest corner of a tract recorded in Deed Book 182, page 109, in the Office of the Register of Deeds, Buffalo County, Nebraska; thence continuing N87°20'30"W on said North line a distance of 691.60 feet; thence N 02°39'30"E perpendicular to said North line a distance of 366.09 feet; thence S87°20'30"E parallel with said North line a distance of 372.15 feet; thence S02°39'30"W perpendicular to said north line a distance of 116.09 feet; thence S87°20'30"E parallel with said North line a distance of 319.50 feet to a point on the West line of said recorded tract; thence S02°40'11"W on said West line a distance of 250.01 feet to the Point of Beginning, containing 4.96 Acres, more or less, Buffalo County, Nebraska duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 19TH DAY OF NOVEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

STANLEY A. CLOUSE
PRESIDENT OF THE COUNCIL
AND EX-OFFICIO MAYOR

ANNEXATION OF YOUNES CENTER ADDITION

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett (Applicant) for Paul and Linda Younes (Owner) for the annexation of Younes Center Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 5 and Government Lot 6 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (northwest of 4th Avenue and Talmadge Street) and consider Resolution No. 2012-208. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Kearney to close the hearing and adopt **Resolution No. 2012-208** approving the Application submitted by Craig Bennett (Applicant) for Paul and Linda Younes (Owner) for the annexation of Younes Center Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 5 and Government Lot 6 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (northwest of 4th Avenue and Talmadge Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers, Kearney. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2012-208

WHEREAS, an Application has been submitted by Craig Bennett (Applicant) for Paul and Linda Younes (Owner) for the inclusion of Younes Center Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of Government Lot 5 and Government Lot 6, Section Eleven (11), Township Eight (8) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Southeast Quarter (SE 1/4) of said Section 11 and assuming the East line of said Section as bearing N00°37'12"E and all other bearing shown hereon relative thereto; thence N00°37'12"E on said East line a distance of 875.38 feet to the North line of Talmadge Street extended Easterly; thence N87°20'30"W on said North line a distance of 777.58 feet to the ACTUAL POINT OF BEGINNING, said point being the Southwest corner of a tract recorded in Deed Book 182, page 109, in the Office of the Register of Deeds, Buffalo County, Nebraska; thence continuing N87°20'30"W on said North line a distance of 691.60 feet; thence N 02°39'30"E perpendicular to said North line a distance of 366.09 feet; thence S87°20'30"E parallel with said North line a distance of 372.15 feet; thence S02°39'30"W perpendicular to said north line a distance of 116.09 feet; thence S87°20'30"E parallel with said North line a distance of 319.50 feet to a point on the West line of said recorded tract; thence S02°40'11"W on said West line a distance of 250.01 feet to the Point of Beginning, containing 4.96 Acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on November 16, 2012 on the inclusion of Younes Center Addition within the corporate limits and recommended the Kearney City Council approve said application; and

WHEREAS, said application to include the land within the corporate limits was duly signed by the owners of the land affected with the express intent of platting the land as Younes Center Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on November 19, 2012 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the land to be platted as Younes Center Addition shall be included within the corporate limits of the City of Kearney, Buffalo County, Nebraska, that the inhabitants of such addition shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules and regulations of the City of Kearney.

BE IT FURTHER RESOLVED that the inclusion of Younes Center Addition within the corporate limits of the City of Kearney is subject to the final plat being filed with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 19TH DAY OF NOVEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

STANLEY A. CLOUSE
PRESIDENT OF THE COUNCIL
AND EX-OFFICIO MAYOR

ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 8:06 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion carried.

ATTEST:

STANLEY A. CLOUSE
PRESIDENT OF THE COUNCIL
AND EX-OFFICIO MAYOR

MICHAELLE E. TREMBLY
CITY CLERK