

Howard Planning and Zoning Minutes



MINUTES HOWARD COUNTY PLANNING & ZONING September 21, 2016

A meeting of the Howard County Planning & Zoning Commission was convened in Open and Public session on the 21st day of September, 2016 in the Assembly Room of the Howard County Courthouse, St. Paul, Nebraska.

Chairman Terry Spilinek called the meeting to order at 8:00 p.m. The open Meeting Act is posted in the rear of the room. Administrator Klinginsmith read the notice of meeting. A proof of publication is filed at the Howard County Clerk's office.

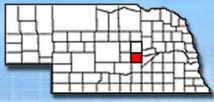
Roll call showed 6 members present: Daryl Anderson, Jeff Christensen, Ken Kozisek, Ron Kulwicki, Jack Reimers and Terry Spilinek. Absent were Randy Kauk, Chris Kosmicki and Dave Sack. Also present were Cherri Klinginsmith Planning & Zoning Administrator, Nancy Usasz, secretary and Dave Schroeder, Howard County Attorney. Members of the public present were Steve Wissing, James H. Truell, Roger Kubik, Laura & Pete Berthelsen, Brad & Kim Arnold, Janet & Rodney Gericke, Don McCarty, Kathy Hirschman, Dan Kuck, Shayne & Niki Bader, Terry Townsend, Ellamae Townsend, Jerry Hanisch, Gerald Rasmussen, Roger Skorniak, John Gaughen & Anthony Saben.

The agenda and minutes were mailed to the board members prior to the meeting. A motion was made by Ken Kozisek and seconded by Jack Reimers to approve the minutes from the August 17, 2016 meeting. The motion was carried by unanimous voice vote.

Unfinished business was discussed. Administrator Klinginsmith asked the board, if a parcel is split between A-2 and A-3 Zoning districts, however the structure is in A-3 and out of the floodplain. Which district has jurisdiction. The board felt that where the structure is located will be the district regulation followed. To change regulations it would need to be discussed at a future Planning & Zoning meeting and we would possibly allow use with a conditional use permit. Next Klinginsmith informed the board that an Elba resident has requested a use not allowed in R-1 district. The board felt if the village approved this use with a conditional use permit the zoning board would also allow it. Due to time restraints the Village is open to having their decision first followed by the approved Conditional Use Permit.

At 8:05 P.M. the Public Hearing regarding Whitetail Creek Subdivision was opened. Administrator Klinginsmith read the notice of public hearing. This Single Lot Subdivision application was submitted by Gerald & Cynthia Rasmussen. The Subdivision consists of 3.019 +/- acres located in the SE ¼ of Section 34, Township 16N, Range 10W of the 6th P.M. in Howard County. The Rasmussen's were not present, however Rodney Gericke spoke in favor of the subdivision. There was no opposing testimony. The Public Hearing was closed and discussion was had by the board. Administrator Klinginsmith stated that this subdivision meets all of the criteria and it also is outside the Odor Footprint for a neighboring land owner as well as if he would expand to a class 1 in the future. A motion was made by Ken Kozisek and seconded by Jack Reimers to approve the Whitetail Creek Subdivision. The motion carried a 6-0 roll call vote. Finding of Fact attached.

At 8:15 P.M. the Public Hearing regarding Quail Hill Subdivision was opened. Administrator Klinginsmith read the notice of public hearing. This single lot subdivision application was submitted by Larry Crumrine. This subdivision will consist of 3.0 +/- acres located in the W ½ of NE ¼ of Section 27, Township 16, Range 10W of



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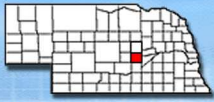
the 6th P.M. in Howard County. Brad & Kim Arnold were present to represent this request and they are in favor. There was no opposing testimony. The Public Hearing was closed and discussion was had by the board. Administrator Klinginsmith stated that they meet all the criteria and this will be the first non-farming residence on the quarter. They will also need to have approval from the Road Department for a driveway and culvert before a Zoning Permit will be approved. A motion was made by Jeff Christensen and seconded by Ken Kozisek to approve the Quail Hill Subdivision. Motion passed with a 6-0 roll call vote. Finding of Fact attached.

At 8:25 P.M. a Public Hearing was opened regarding an Application to rezone Block 6 lots 1-8 in St. Libory from R-1 to I-2 and Tax Lots 14 and 15, 1.25 +/- acres in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 21, Township 13, Range 9W of the 6th P.M. in Howard County rezoning from A-2 to I-2. Administrator Klinginsmith read the notice of public hearing. Steve Wissing, Union Grain Coop Board member explained their request. He stated that they have used this land as Heavy Industrial since they purchased it. They have previously piled corn on the property and now they use it to park equipment on. They keep the property mowed and looking nice. The Lumberyard was previously located in this block and was zoned I-2 prior to 2005 when the County rezoned the property to R-S. Union Grain would like to rezone this property to stay in compliance with Howard County Zoning Regulations. Anthony Saben, neighboring land owner and Roger Skorniak, Manager of Union Grain spoke in favor of rezoning the property. Chairman Spilinek asked for opposing testimony. Roger Kubik, owner of lot 4 stated that he is opposed. Attorney James H. Truell, represented his opposition. Truell stated that in the Howard County Comprehensive plan this land was intended for residential use and rezoning would go against the plan. Mr. Truell asked the board to deny this application and comply with the Comprehensive plan as this change will affect the value of Roger Kubik's property and inhibit his ability to refinance. There was no other opposing testimony. Discussion was had by the board. Discussion was put on hold to open the Public Hearing for Shayne Bader Conditional Use Permit Application.

8:40 P.M. the Public Hearing regarding a Conditional Use Permit by Shayne Bader was opened. Notice of Public Hearing was read by Administrator Klinginsmith. Public Hearing was put on hold to finish discussion of the Rezone Application.

Next Administrator Klinginsmith stated that Lot 4 would be changed to I-2 but would be grandfathered in as residential use. Jeff Christensen stated that he was concerned that the rezone might negatively affect the value of lot 4. Jack Reimers, had concerns if Mr. Kubik's septic tank failed, would NDEQ approve an update with the size of his lot? Administrator Klinginsmith stated a new home without utilities will need NDEQ approval for septic if lot is less than 3 acres before a zoning permit is approved. Attorney Schroeder stated that he would not assume the land value would change with rezoning the property to I-2 as it was zoned I-2 prior to the zone change in 2005. The board discussed that either approving or denying this application would have negative effect of one of the party's involved. Jeff Christensen suggested that Union Grain apply for a Conditional Use Permit to use the lots they own as I-2 as they have been for several years and zoning would remain R-1. The board agreed that this might be the best option. There was no opposing testimony for rezoning tax lots 14 and 15. A motion was made by Jeff Christensen and seconded by Jack Reimers to approve rezoning lots 1-8 of Block 6 in St. Libory and lot 14 and 15 in Section 21, Township 13, Range 9. The motion was denied with 6-0 roll call vote. Finding of Fact attached.

Shayne Bader was present to represent his request. He would like to apply Commercial Biodegradable Waste to his cropland. This material is taken from the wash floor at JBS Swift and contains manure and minerals



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washed from the hides and has a high fertilizer value. Mr. Bader plans to get around 150 loads and they are able to deliver 3 loads per day. He will stock pile the material until delivery is complete and cover the piles with manure daily to help with any odor. Mr. Bader stated that he is in favor because it will lower his fertilizer bill and will have benefits lasting for 4 years. Chairman Spilinek asked for opposing testimony. Jerry Hanisch, neighboring land owner stated that he is concerned that it would create runoff into his pond causing contamination. Administrator Klinginsmith stated that he can only spread waste on flat ground. It is not allowed on ground with a 10 percent slope or more. Shayne Bader agreed that he will not spread on that area. John Gaughen stated that the roads will be damaged due to that much heavy traffic, and his land value may be affected if he would sell his property in the future because everyone would know that this waste was spread on the surrounding land and create a fly problem. Mr. Bader stated that when they are planning to haul the roads will be frozen and the flies will be dead and should not be a problem. Peter Berthelsen stated that in the Howard County Zoning Regulations under A-1, I. Land application of Commercial Biodegradable Material C-1: **Protection of waters, land, and air of the state. The application of nitrogen from Commercial Biodegradable Material and any other sources shall not exceed the nitrogen needs of the crops to be grown on the site over the next year, and the total application of all nutrients shall not exceed the acceptable agronomic application rates recommended by the University Of Nebraska Department Of Agronomy for the crops involved.** His concern is that if this material will provide fertilizer for 4 years, it should not be allowed because our regulations state that you should not apply any more than the crop needs for the year. The board explained that the material has to break down over time and therefore you would only need to apply every 4 years. Don McCarty verified that the permit is good only for 6 months and after that he must reapply. Administrator Klinginsmith said yes the permit is good for only 6 months. Laura Berthelsen asked the board to put restrictions on stockpiling, only allowing for it to be stockpiled for 48 hours to 1 week. Daryl Anderson stated that this would be impossible because he is only able to get three loads per day therefore it will take time to get enough to cover the field. There was no other opposing testimony. The Public Hearing was closed. Discussion was had by the board. Administrator Klinginsmith stated that he originally applied to spread the material on 460 acres but after meeting all setbacks and avoiding slopes he will be allowed to spread in 197 acres and she will visit the site and determine the best place to stockpile and flag the areas that he is allowed to spread. He will start on November 1, 2016 and his permit will expire on May 1, 2016. He will only be allowed to apply the BFE and Grit Material. A Motion was made by Daryl Anderson and seconded by Jeff Christensen to approve the conditional use permit for Shayne Bader to apply Commercial Biodegradable Waste. Waste may be applied on the mapped areas in sections, 33-16-9, 3-15-10, 4-15-10, 27-16-9, 28-16-9 and 34-16-9. Start date will be November 1, 2016 and end date will be May 1, 2016. Products applied will be BFP and Grit. Motion carried 6-0 roll call vote. Finding of Fact attached.

At 10:09 P.M. a motion was made by Jeff Christensen and seconded by Jack Reimers to adjourn. The motion carried by unanimous voice vote. The next meeting is tentatively scheduled for October 19, 2016

Nancy Usasz, Secretary