



Howard Planning and Zoning Minutes



MINUTES HOWARD COUNTY PLANNING & ZONING May 17, 2017

A meeting of the Howard County Planning & Zoning Commission was convened in Open and Public session on the 17th day of May, 2017 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 five members present Jack Reimers, Daryl Anderson, Terry Spilinek, Randy Kauk and Kenneth Kozisek. Dave Sack, Jeff Christensen, Chris Kosmicki and Ron Kulwicki were absent. Also present were Cherri Klinginsmith Planning & Zoning Administrator and Nancy Usasz, Planning & Zoning Secretary. Members of the public present were Jim Kasson, Marlene Niemoth, Sue & Roland Trentman, Carrie Thomas, Dan & Ann Purdy, Connie Thompson, Tom & Pat Knutson, Shayne & Niki Bader, Ben Rivera, Laura & Pete Berthelsen, Lavern Wolf, Kris Schmidt, Mark Oakley, Gerald & Charlene Craig, Lowel & Cheryl Larson, Robert & Linda Kanter, Craig Kuszak, Jim Zimbelman and Jim Thompson.

The Agenda and Minutes were mailed to the Board Members prior to the meeting. A motion was made by Jack Reimers and seconded by Randy Kauk to approve the minutes of the April 19, 2017 meeting. The motion carried on unanimous voice vote.

At 8:05 p.m. a Public Hearing was opened regarding the Purdy Subdivision. Administrator Klinginsmith read the notice of meeting. This is a single lot subdivision in the NE $\frac{1}{4}$ of Section of 33-13-12W. Dan and Ann Purdy were in attendance to represent their request. Administrator Klinginsmith stated that this subdivision is for banking purposes only and can never be sold separate from the remaining land. There was no opposing testimony. The public hearing was closed and discussion was had by the board. Administrator Klinginsmith stated that the land is split between A-1 and A-3 Zone and she used A-1 due to the fact that the site is above the base flood elevation. There was no further discussion. Ken Kozisek made a motion to approve the Purdy Single Lot Subdivision application and Jack Reimers Seconded it. Motion Carried 5-0 roll call vote. Finding of fact attached.

At 8:15 a public hearing was opened to Vacate Peterson Acres Subdivision. Administrator Klinginsmith read the notice of meeting. This is a 3 acre subdivision located in the NW $\frac{1}{4}$ of Section 25 Township 14 Range 10. Tom & Pat Knutson were in attendance to represent their request. Tom stated that they purchased 21.45 acres with 3.0 acres subdivided off. They would like to have a multi lot subdivision and they are vacating so that the multi lot subdivision will all be under one subdivision name. There was no public comment. The public hearing was closed. Daryl Anderson made a motion to approve the application to vacate the Peterson Acres Subdivision and Randy Kauk seconded it. Motion Carried 5-0 roll call vote Finding of fact attached.

At 8:20 p.m. a preliminary public hearing was opened for a Multi Lot Subdivision application by Pat and Tom Knutson in the NW $\frac{1}{4}$ of Section 25 Township 14 Range 10. This will be a 4 lot subdivision. Current access routes are on 9th avenue and Old Hwy 281. There was no opposing testimony. The Public Hearing was closed. Randy Kauk made a motion to approve the Preliminary Straw Boss Addition multi lot subdivision application and Ken Kozisek seconded the motion. Motion Carried 5-0 roll call vote. Finding of fact attached.

At 8:30 p.m. a public hearing was opened for a Conditional Use Permit for a Nuisance Easement by Carrie Thomas. She was in attendance to represent her request. Thomas would like to build a home on the farm stead where she grew up located in the SW $\frac{1}{4}$ of section 29-13-9 with 100 + acres, which is within Dale Barbander's odor footprint. She grew up on the farm and has no problem with feedlot odors. Both parties have signed the Commercial Feedlot Nuisance Easement form to be filed with the deed. There was no opposing testimony. The public hearing was closed. A motion was made by Ken Kozisek and seconded by Jack Reimers to approve the condition use permit application to build a residence within Dale Brabander's odor footprint. Motion Carried 5-0 roll call vote. Finding of fact attached.

At 8:40 p.m. we started a series of eight (8) public hearings on Condition Use Permits to spread commercial biodegradable waste on land. Shayne Bader was in attendance to represent all eight (8) requests. The first public hearing was opened regarding a permit application by **Gary & Tanya Meyer**. The notice was read by administrator Klinginsmith. The board asked Mr. Bader to explain the products and what he is wanting to do. He stated that he has taken over the contract with JBS Swift to haul the waste material out of the plant. JBS Swift has a machine to separate the different products. GRIT, BELT, PAUNCH & LYCO. Bader stated that the LYCO



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which is the tankage or bad parts of the cow and the PAUNCH which is the undigested GRIT from the first stomach. Both products are currently being taken to the landfill in David City. The GRIT is Manure out of the washed out pens at JBS Swift along with the back 3 stomachs and intestines that are also washed out put into slurry, dried and pressed. BELT is Waste from the water treatment plant. It's washed out, put through a belt press. All the oil and fat are separated from it. GRIT, BELT and Paunch is what he is wanting to land apply. There is 50 pounds of organic nitrogen per ton of the product and it is released over a two to three year period therefore acting as an inexpensive fertilizer. Several neighboring land owners were present to ask questions and state their concerns about the product. Chairman Spilinek asked for opposing testimony. Administrator Klinginsmith stated that she received calls from Frank Vopat and Mike Stenson asking questions about the product but they were not in attendance. Charlie Wagner came into the Zoning office and stated that he is against the application due to smell and increased number of flies. The Public Hearing was closed. It will be okay to apply in the ¼ mile area of the land owner's land where they live. A motion was made by Daryl Anderson to approve the conditional use permit application to apply commercial Biodegradable waste on the following tracks of land and seconded by Kenneth Kozisek.

- 45 acres in the W ½ of SE ¼ of Section 2, Township 16N, Range 9W
- 30 acres in the SW ¼ of Section 7, Township 16N Range 9W
- 15-20 acres in the NE ¼ of Section 12, Township 16N, Range 10W

Motion carried 5-0 roll call vote. Finding of fact attached along with maps.

The next public hearing was on a conditional use permit application by **Kirk & Crissy Bader** to spread commercial biodegradable waste on land. The notice was read by administrator Klinginsmith. There was no opposing testimony of this permit. The public hearing was closed. A motion was made by Randy Kauk and seconded by Jack Reimers to approve the condition use permit application by kirk and Crissy Bader to apply commercial biodegradable waste on their land. In the following locations:

- 35 acres in the E ½ of NE ¼ & NE ¼ of SE ¼ of Section 13, Township 14N, Range 9W
- 100 acres in the W ½ of Section 1, Township 16N Range 9W
- 30 acres in the NE ¼ of Section 2, Township 16N Range 9W
- 16 acres in the E ½ of SE ¼ Section 2, Township 16N Range 9W
- 34 acres in the SW ¼ of Section 28, Township 16N Range 9W
- 70 acres in the SE ¼ of Section 29, Township 16N Range 9W

Motion carried 5-0 roll call vote. Finding of fact attached along with maps.

The next public hearing was on a conditional use permit application by **Gary Bader & Sons LP I** to spread commercial biodegradable waste on land. The notice was read by administrator Klinginsmith. Chairman Spilinek asked for opposing testimony. Holly Miller and Craig Kuszak were present with concerns. Holly Miller stated that she has concerns with run off and had a lot of questions about the material and the process of land application. Craig Kuszak stated that he was concerned with run off and contamination of his farm pond that his cattle drink from and also asked if this permit follows the regulations. Administrator Klinginsmith stated that they are only allowed to spread on land with less than 11 percent slope and it does meet all of the Howard County Zoning regulations and DEQ Regulations. The board asked Mr. Bader if it would be possible to aerate the land after application to prevent run off and he agreed that it could be done. Holly Miller asked what happens if he does not comply with the conditions of the permit. Chairman Spilinek stated that if he is in noncompliance the permit will be revoked immediately. Norma Mahrt called Administrator Klinginsmith with questions about the permit and also asked Holly Miller to ask questions for her as she was not able to attend. She is concerned with odor and flies. With no further public comment the public hearing was closed. A motion was made by Jack Reimers and seconded by Kenneth Kozisek to approve the Condition Use permit application by Gary Bader & Sons LP I requesting to apply commercial biodegradable waste on their land with the condition that they must aerate a 50 foot border next to the neighbors. The following tracks of land have been approved:

- 8 acres in the SW ¼ of NE ¼ Section 12, Township 16N, Range 11W
- 150 acres in the W ½ & W ½ SE ¼ & SE ¼ of SE ¼ of Section 12, Township 16N Range 11W
- 142 acres in the N ½ & SE ¼ of Section 11, Township 16N Range 11W

Motion carried 5-0 roll call vote. Finding of fact attached along with maps.

The next public hearing was on a conditional use permit application by **Gary Bader & Sons LP II** to spread commercial biodegradable waste on land. The notice was read by administrator Klinginsmith. Chairman Spilinek asked for opposing testimony. Frank Vopat was not in attendance but requested maps of eligible acres. His residence is next to the 30 acres eligible in the W ½ & SE ¼ of Section 1, Township 16N Range 10W. Mike Stenson was also not in attendance but called Administrator Klinginsmith with questions. There was no further public testimony. The public hearing was closed. Randy Kauk made a motion to approve 47 acres in the NW ¼ of Section 12, Township 16N, Range 10W only for the conditional use permit application by Gary Bader & Sons LP II, denying the 30



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acres in the W ½ & SE ¼ of Section 1, Township 16N Range 10W. The motion was seconded by Kenneth Kozisek. Motion carried 5-0 roll call vote. Finding of fact attached along with maps.

The next public hearing was on a conditional use permit application by **Gary and Connie Bader** to spread commercial biodegradable waste on land. The notice was read by administrator Klinginsmith. Chairman Spilinek asked for opposing testimony. Administrator Klinginsmith stated the Charlie Wagner came into the office and was against the permit due to odor and increased flies. Elinor Cool called Administrator Klinginsmith and stated it is within a mile of her house and does not want this applied. Lowell Larson stated that the land slopes downhill and will run into ponds and get into the drinking water and eventually get into the Loup River. Kris Schmidt is very concerned with runoff that could possibly get into in ponds harming his livestock and asked Mr. Bader not to apply next to his land. Mark Oakley has questions about where he would be putting a stockpile and how long it would be there. Administrator Klinginsmith stated that she will visit the farm site and decide what the best location for a stock pile would be. With no further public comment the public hearing was closed. A motion was made by Jack Reimers to approve the conditional use permit application by Gary and Connie Bader, requesting to apply commercial biodegradable waste on their land with the condition that they must aerate any areas they feel may run off into the water shed. The motion was seconded by Kenneth Kozisek. The following tracks of land will be approved:

- 75 acres in the SE ¼ of Section 9, Township 16N Range 9W
- 38 acres in the N ½ of NE ¼ of Section 16, Township 16N, Range 9W
- 50 acres in the SW ¼ of Section 3, Township 16N, Range 9W
- 74 acres in the S ½ NE ¼ & N ½ of SE ¼ of Section 16, Township 16N Range 9W.
- 35 acres in S ½ SE ¼ of Section 16, Township 16N, Range 9W
- 135 acres in S ½ of Section 22, Township 16N, Range 9W
- 100 acres in the N ½ of Section 11, Township 16N, Range 9W
- 43 acres in the SW ¼ of Section 2, Township 16N, Range 9W
- 300 acres in the S ½ of Section 31, Township 15N, Range 9W
- 160 acres in the SE ¼ of Section 32, Township 15N, Range 9W in the 6th P.M. in Howard County, Nebraska.

The 135 acres in the W ½ of Section 10, Township 16N, Range 9W was not approved. Motion carried 5-0 roll call vote. Finding of fact attached along with maps.

The next public hearing was on a conditional use permit application **by Brad and Lana Bushhousen** to spread commercial biodegradable waste on land. The notice was read by administrator Klinginsmith. Chairman Spilinek asked for opposing testimony. Robert Kanter stated that he is not in favor of the application due to the odor and the flies this is going to attract and had questions about whether DEQ or NRCS puts stipulations on it. Administrator Klinginsmith stated that DEQ has rules that Bader must follow or they will shut him down. Jim Zimbelman had questions about the product and asked if it was a dry or liquid. Shayne Bader stated that it is a solid product and the liquid goes to the landfill is David City. There was no further public comment and the public hearing was closed. Shayne Bader stated there will not be any stockpiling on these sites until crop (corn/soybean) is removed. Daryl Anderson made a motion to approve the application by Brad and Lana Bushhousen, requesting to apply commercial biodegradable waste on the following tracts of land:

- 92 acres in the SW ¼ of Section 13, Township 14N Range 9W
- 124 acres in the SE ¼ of Section 26, Township 15N, Range 9W

The motion was seconded by Randy Kauk. Motion carried 5-0 roll call vote. Finding of fact attached along with maps.

The next public hearing was on a conditional use permit application by **Will Meyer** to spread commercial biodegradable waste on land. The notice was read by administrator Klinginsmith. Chairman Spilinek asked for opposing testimony. Robert Kanter stated that he lives west of this land and again he is concerned with flies and odor. Zoning board noticed that Will Meyer's residence is next to one of the tracts of land he is applying on. Shayne Bader asked if it is acceptable to spread closer than ¼ mile to his residence. The Board stated that if Will Meyer was ok with it would be fine, this will add 5-10 additional acres. Randy Kauk made a motion to approve the application by Will Meyer, requesting to apply commercial biodegradable waste on the following tracts of land:

- 115 acres in the SW ¼ of Section 15, Township 14N Range 9W
- 50 acres in the S ½ SE ¼ of Section 15, Township 14N, Range 9W

The motion was seconded by Jack Reimers. Motion carried 5-0 roll call vote. Finding of fact attached along with maps.

The next public hearing was on a conditional use permit application by **Shayne Bader** to compost PAUNCH. The notice was read by administrator Klinginsmith. Chairman Spilinek asked Shayne Bader to describe what he is wanting to do. Bader Stated that he would like to haul in PAUNCH mixed with manure and lime to compost it and use it as fertilizer that his high in Phosphate. According to



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Bader the process will take anywhere from a week to 40 days depending on the weather. Chairman Spilinek asked for opposing testimony. Pete Berthelsen stated that his office is about a ¼ mile from this location and there is a terrible odor from his last conditional use permit to apply GRIT and BELT to his land. He asked how often the pile will be opened up and worked. Bader stated that it would be turned once or twice a week until it is composted. Laura Berthelsen stated that she spoke with John Ditter with JBS Swift and they did a 90 day study at the ammunition plant by Grand Island. It was turned every 4-8 days until it reaches 140 degrees. They did not turn as often as they should. They added lime to help reduce odor and there was still a horrible odor and they could not come up with anything that reduce or control smell. Bader stated that he has been the first one ever to add lime to reduce odor and claims that John Ditter told him the exact opposite that he told Laura Berthelsen. Bader talked to the Hall county Commissioner Dune and he said they did not receive any results good or bad from JBS Swift on the study. Bader wants to do a test on composting this product. Administrator Klinginsmith stated that she spoke to Jared & Sarah Rasmussen several times because he is the closes neighbor and he said that there was an odor the day it was spread with a south wind but other that it was not a problem. Bader also explained that the DEQ guidelines state that he can compost 1000 square yards at each site without a permit. Which would equal about 40 to 50 of his side dump loads. With no other public comment the public hearing was closed. The Board asked Bader, what happens when this does not work or has a harsh odor and he stated that he will load it up and haul it to David City. Kenneth Kozisek made a motion to approve the conditional use permit application by Shayne Bader requesting to have a compost site on his land with the condition of only having a one time, one 1,000 yard pile of paunch for composting, the motion was seconded by Randy Kauk. Motion carried 5-0 roll call vote. Finding of fact attached along with maps.

Mr. Bader also asked to renew his previous permit for another year to haul and stock pile BELT & GRIT to that same site? The board felt that this was okay, as no complaints had been received during his first application to that site.

At 11:15 p.m. Daryl Anderson made motion to adjourn the meeting and Randy Kauk seconded the motion. The next meeting is tentatively scheduled for June 21, 2017.

Nancy Usasz, Secretary