

Howard Planning and Zoning Minutes



MINUTES HOWARD COUNTY PLANNING & ZONING June 20, 2018

A meeting of the Howard County Planning & Zoning Commission was convened in Open and Public session on the 20th day of June, 2018 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, Jack Reimers, Ken Kozisek, Ron Kulwicki and Terry Spilinek. Those absent were: Chris Kosmicki and Dave Sack. Randy Kauk arrived at 8:10 p.m. Also present were Cherri Klinginsmith, Planning & Zoning Administrator, Nancy Usasz, Planning & Zoning Secretary, and members of the public including: Mark & Delores Edwards, Dick Hadenfeldt, Eric Pollock, Barb Wroblewski, Julie Gawrych, Shari Hadenfeldt, Bill Hadenfeldt, Jeff Turek, Sheila Turek, Judith Puncochar, Rebecca Puncochar, Kenny Kohlhof, Carla Gruber, Tim Gruber, Rod Diehl, Shayne & Niki Bader, Rose Dixson, Elizabeth Dixson, and Aimee Dixson.

The Agenda and Minutes were mailed to the Board Members prior to the meeting. A motion was made by Ron Kulwicki and seconded by Daryl Anderson to approve the minutes of the May 16, 2018 meeting. The motion carried on unanimous voice vote.

At 8:05 PM a public hearing was opened for a single lot subdivision by Fredrick and Kathleen Koziol. The subdivision will be named Prairie Oaks Subdivision and is located in the SW ¼ Section 10, Township 15, Range 10. . The notice was read by Administrator Klinginsmith. Mark & Delores Edwards were in attendance to represent the request. Delores stated they would like to purchase some land to build a home. Chairman Spilinek asked for testimony in favor and opposition. Attorney Julie Gawrych was in attendance to represent Tim & Carla Gruber, who were in opposition. Julie stated that it is noted in the deed and the purchase agreement that there would not be a home built on the lot during the life of Tim & Carla Gruber. Mrs. Edwards stated that she understood it to state that the Koziol family agreed not to build on the land but it does not state future buyers of the land. Gawrych stated that was the intent of the Gruber's and they are ready to file a case if a zoning permit is issued. With no further testimony the public hearing was closed. The board did not feel that the clause in the deed referring to residential construction should have any affect in the decision to approve or deny the subdivision. Administrator confirmed with the board, she would confirm with county attorney prior to any zoning permit approval. After much discussion Jeff Christensen made a motion to approve the Prairie Oaks Subdivision located. Jack Reimers Seconded the motion. Motion carried 6-0 roll call vote. Finding of Fact was completed and is attached.

8:15 p.m. Final Public Hearing was opened for BMW Estates Multi Lot Subdivision located in the N ½ of the NW ¼ Section 15, Township 14, Range 10. . The notice was read by Administrator Klinginsmith. Attorney Barb Wroblewski was in attendance to represent this request for Linda Virene, Power of Attorney for the Betty Mae Wagner Estate. Wroblewski presented the request. She stated that the Engineering Study had been completed and each lot will need to be build up at least (1) one foot or more and the dirt will be available on the property since they will be building a drainage system on the property lines. This property is located in the A-3 Zoning District but a Variance was approved in February 2018 to allow a multi lot subdivision and consider the property as A-2 zoned land.

A Public Hearing was opened at 8:25 p.m. regarding the renewal of a Conditional Use Permit for a compost site for Shayne Bader located in the E ½ of SE ¼ Section 4, Township 15, Range 10.



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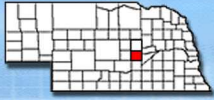


Chairman Spilinek asked for testimony in favor or opposition. Judith Puncocar stated that she is not in opposition of the subdivision but would like them to be aware that she plans to file a Quiet Title Action Suit against the property. Before the flood of 1983 they had 53 acres. Due to avulsion they lost 13 acres, and in the flood of 2011 they lost another 14 acres. They plan to reclaim about 27 +/- acres which would include the river. This land now lies on the west side of the river due to the floods and is currently assessed as Bettie Mae Wagner's property. With no further opposition the public hearing was closed. Discussion was had by the board. Lot 1 has a drain that runs through the middle of the lot allowing the water from the west side of Inman road to drain properly. The board was concerned that there is not enough information on maintaining drainage from the west through this property. Administrator Klinginsmith explained the engineering study only applies to floodplain and it is for the local authorities to examine the drainage issues. A Motion was made by Jeff Christensen and Seconded by Randy Kauk to approve the BMW Estates Multi Lot Subdivision in the N ½ of the NW ¼ of Section 15, Township 14 Range 10 in Howard County. Motion Denied with 0-7 Roll Call vote. Finding of Fact was completed and is attached.

Administrator Klinginsmith read the notice of public hearing previously opened. Shayne Bader was in attendance to represent this request. Shayne stated that he hauls about 5 loads of Commercial Biodegradable Waste out of JBS Swift per day and when it rains or snows and they are not able to get into fields he needs a place to stockpile the waste. He was approved to hold 1000 cubic yards at this location. Shayne stated that he piles it and then when conditions warrant they haul it to a field for application. Administrator Klinginsmith stated that she has not received any written complaints on this permit. Chairman Spilinek asked for testimony in favor or opposition. Kerry Townsend was concerned with spillage on the county road. He stated that after driving through it his garage had a foul odor for about a week. He stated that he is not against the permit but does not appreciate driving through it. Shayne stated that before they were hauling Paunch which is what was causing the terrible odor. They have discontinued hauling Paunch and they will only be stockpiling Grit and Belt. Kerry was also concerned with the length of time the permit will be issued for. With no other public comment the public hearing was closed. The board discussed the duration of the permit. Shayne stated that his contract with JBS Swift was for 3 years and he has about 22 months remaining. After much discussion Jeff Christensen and Randy Kauk seconded the motion to approve the renewal of a Condition Use Permit for a composting site located in the E ½ of SE ¼ Section 4, Township 15, Range 10. The Site will compost Grit, Belt Lime and Manure from JBS Swift. This Permit will expire on June 1, 2020. Motion carried 7-0 roll call vote. Finding of Fact was completed and is attached.

The next discussion was regarding an accessory dwelling in the NE ¼ Section 33, Township 13, Range 12. This property is located within the A-1 and A-3 Zoning District. Rod Diehl was in attendance to discuss this with the board. Rod stated that his son would like to build a home in this location. Currently there are two houses in the quarter. The Purdy Subdivision was done for loan purposes only and is not allowed to be sold from the other property. Rod owns 120 acres adjoining his subdivision which was done for loan purposes only. After review and much discussion the board stated that this would be the first nonfarm residence in the quarter section and if Rod proves \$1,000.00 Ag income, it is allowed.

The next discussion was on Ken Kohlhof's request for a Conditional Use Permit for a holding pond in Howard County for his Hall County 3,000 head feedlot. This is a public hearing that was tabled at the May 16, 2018 meeting. Administrator Klinginsmith checked with other counties where there is a feedlot on the county line and a lagoon in another county. After much research Administrator Klinginsmith stated that the other counties treat the lagoon as part of the main feedlot, therefore we would use a Class II odor footprint. Kohlhof explained that the solids would remain in the lagoon at the feedlot in Hall County. When it rains runoff water needs to be pumped off the lagoon within 84 hours. Kohlhof stated that the holding pond in Howard County would not have any slurry or solids. Chairman Spilinek asked for public testimony. Shari Hadenfeldt asked if slurry has a smell. Ken stated that it would not smell any worse than the feedlot does already. Eric Pollock stated that he feels to approve this permit would be a bad decision and Howard County should not bring Hall



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county problems into Howard County. The Public hearing was closed. After much discussion the board agreed with using a class II odor footprint and stated that Kohlhof will need to get waivers signed by land owners who live within the Odor Footprint. Kohlhof will have until September 9, 2018 to come back to the zoning board for final decision on the Conditional Use Application. A motion was made by Ron Kulwicki and seconded by Kenneth Kozisek to table the Conditional Use Permit for a holding pond located in the SE corner of SW $\frac{1}{4}$ of Section 34, Township 13, Range 11 in Howard County. Motion Carried 7-0 Roll Call Vote.

Dusty Dugan's feedlot was the next item of discussion. NDEQ has required Dugan's to move their pens. The neighboring land owners to the north are not happy with the change due to the feedlot moving closer to their home. Klinginsmith gave the board a timeline of events, as follows. The Feedlot has been permitted with NDEQ since 1972. The house was built in 2005. The odor footprint maps were developed in 2008 and the house was inside the odor footprint. In January 2016 Administrator Klinginsmith discussed the expansion of Dugan's Feedlot with zoning board and since the house was within the odor footprint already, zoning board felt this was not an encroachment (1-20-2016 minutes). After discussion, the Board stated that it is the land owner responsibility to meet setbacks. In 2005 when the house was built the land owner did not meet the ($\frac{1}{2}$) half mile setback nor did they meet the ($\frac{3}{4}$) three quarter mile setback that was listed on the zoning application. The board stated that they feel that Administrator Klinginsmith has handled the situation correctly.

The final discussion was regarding Common Ownership of Dixon's Feedlots. Klinginsmith confirmed with the board that multiple feedlots that are close in proximity are not considered one feedlot unless there is an alleyway connecting the two. Our regulations state that if two commercial feedlots are near in proximity they could be deemed to be a single livestock operation if they are adjacent to each other or if they utilize a common area or system for the disposal of livestock wastes. The board stated that at this time we do not have 2 common ownership commercial feedlots close in proximity, so the regulations are being met at this time.

Jeff Christensen made a motion to adjourn the meeting and Ron Kulwicki second the motion. The next meeting is tentatively scheduled for August 15, 2018 at 8:00 p.m.

Nancy Usasz, Secretary