

Howard Planning and Zoning Minutes



MINUTES

HOWARD COUNTY PLANNING & ZONING

May 15, 2019

A meeting of the Howard County Planning & Zoning Commission was convened in Open and Public session on the 15th day of May, 2019 in the Assembly Room of the Howard County Courthouse, St. Paul NE.

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.

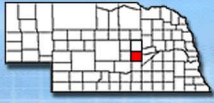
Roll call showed 7 members present: Daryl Anderson, Jeff Christensen, Jack Reimers, Terry Spilinek, Dave Sack, Ken Kozisek and Randy Kauk. Chris Kosmicki and Ron Kulwicki were absent. Also present were Cherri Klinginsmith, Planning & Zoning Administrator, Nancy Usasz, Planning & Zoning Secretary, and members of the public including: Jim Pirnie, Travis Hedman, Shawna Christensen, Tom Kasson, Erma Rasmussen, Dave Harrington, Rick Fullner, Mena & Dave Sprague, Don Jensen and George Jensen.

The agenda and Minutes were mailed to the Board Members prior to the meeting. A motion was made by Dave Sack and seconded by Ken Kozisek to approve the minutes of April 17, 2019 meeting. The motion carried on unanimous voice vote.

Discussion was had regarding placing a temporary modular home on land that is below the base flood elevation requirements. Administrator Klinginsmith asked for the board's opinion on if they felt it would be ok to allow a temporary Double Wide home that does not meet BFE requirements with a Conditional Use Permit. The board did not see a problem with applicant applying for a Conditional Use Permit as long it is for a set period of time.

At 8:05 PM a Public Hearing was opened for Odell Single Lot Subdivision application by Theodore L. Kohtz. This subdivision is located in the N ½ of the NE ¼ Section 16 Township 13N Range 11W and will consist of 9.81 +/- acres. Administrator Klinginsmith stated that this subdivision is straight forward and will be the only residence in the quarter. There was no testimony in favor or opposition. The public hearing was closed. After a short discussion Jeff Christensen made a motion to approve the Odell single lot subdivision and Dave Sack seconded the motion. Motion carried 7-0 roll call vote. Finding of fact was completed and is attached.

At 8:10 PM a public Hearing was opened for Rye Hill single lot subdivision application by Jeffrey L. and Shawna Christensen. This subdivision is located in the N ½ of the SW ¼ Section 16, Township 14N Range 10W and will consist of 15.56 +/- acres. Shawna Christensen was in attendance to represent this request. Shawna stated this is a pivot corner and they plan to sell it. There was no testimony in favor or opposition. The public hearing was closed and discussion was had by the board. Dave Sack made a motion to approve the Rye Hill Subdivisions and Jeff Christensen seconded the motion. Motion carried 7-0 roll call vote. Finding of fact was completed and is attached.



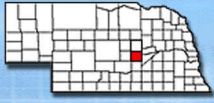
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At 8:15 PM a Public Hearing was opened for Kohtz Single Lot Subdivision application by Gerald L. and Lanell A. Kohtz. This subdivision is located in the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 29, Township 14N, Range 11W and will consist of 4 +/- acres. Administrator Klingensmith stated that this would be the first nonfarm residence in the quarter as the other residence is attached to the farm. Currently there is two residences on the parcel and one of them will be removed. There was no testimony in favor or opposition. The public hearing was closed. The public hearing was closed and discussion was had by the board. Jeff Christensen made a motion to approve the Kohtz Subdivisions and Dave Sack seconded the motion. Motion carried 7-0 roll call vote. Finding of fact was completed and is attached.

At 8:20 PM a Public Hearing was opened for a Conditional Use Permit (CUP) application by James D. Pillen, Partner of GGP, LLC and Edwin Fay Farm, LLC requesting to apply livestock waste from a concentrated pit building through an irrigation system on 460 acres located in the NW $\frac{1}{4}$, NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of Section 4, Township 16N, Range 10W in Howard County. Rick Fullner representative of Pillen Family Farms was in attendance to represent this request. Rick Stated that they would like to apply the liquid from the lagoons through a pivot to farm ground as fertilizer. Their intention is to follow DEQ regulations and stay in compliance as not to cause issues with the neighboring land owners. Chairman Spilinek asked for testimony in favor or opposition. Erma Rasmussen stated that she is opposed to this request. She feels that it would be spreading toxins into the atmosphere making this area a less desirable place to live. Mena Sprague stated that she is concerned that this will contaminate our drinking water. Dave Sprague questioned the regulations and who will enforce them. Rick stated that they follow strict guidelines from DEQ and they apply 2-3 inches a year and about 30 hundreds with each pass to prevent runoff. The pivot is disconnected from the well and there is no chance of the waste contaminating the drinking water. With no other testimony the public hearing was closed and discussion was had by the board. After much discussion a motion was made by Jeff Christensen to approve the conditional use permit by GGP, LLC and Edwin Kay Farms, LLC to apply liquid hog waste from lagoons through pivots on the NW $\frac{1}{4}$, NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of Section 4, Township 16N, Range 10W Howard County. Conditions added to application are 1. No corner systems on pivots 2. Will be regulated by NDEQ. Daryl Anderson Seconded the motion. Motion carried 7-0 roll call vote. Finding of fact was completed and is attached.

At 8:30 PM a Public Hearing was opened for a Conditional Use Permit (CUP) application by James D. Pillen, Partner of GGP, LLC and CMNB, LLC requesting to apply livestock waste from a concentrated pit building through an irrigation system on 155 Acres located in the NW $\frac{1}{4}$ of Section 5, Township 16N, Range 10W in Howard County. Rick Fullner also represented this request and answered questions. Chairman Spilinek asked for testimony in favor or opposition. George Jensen stated that he is not opposed to spreading liquid livestock waste through the pivot but he is concerned that is it right next to his house. He is asking for a $\frac{1}{4}$ mile setback like what is required with livestock waste that comes from JBS Swift. With no further comments the public hearing was closed and discussion was had by the board. After much discussion Randy Kauk made a motion to approve the conditional use permit for CCP, LLC and CMNB, LLC to apply liquid hog waste from lagoons through pivots on the NW $\frac{1}{4}$ of Section 5, Township 16N, Range 10W in Howard County. One of the conditions added to the application is: Pivots applying hog waste must stop applying $\frac{1}{4}$ mile away from the residence



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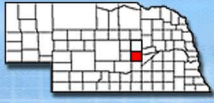
north and northwest of each tract. (Buffer map attached) Jeff Christensen seconded the motion. Motion carried 7-0 roll call vote. Finding of fact was completed and is attached.

At 8:40 PM a Public Hearing was opened for a Conditional Use Permit (CUP) application by James D. Pillen, Partner of GGP, LLC requesting to apply livestock waste from a concentrated pit building through an irrigation system on 160 acres located in the SE $\frac{1}{4}$ of Section 5, Township 16N, Range 10W and 15-20 acres in the NW $\frac{1}{4}$ Section 8, Township 16N Range 10W in Howard County. Rick Fullner was present to answer questions. Chairman Spilinek asked for testimony in favor or opposition. With no public comment the public hearing was closed and discussion was had by the board. Jack Reimers made a motion to approve a conditional use permit by GGP, LLC in SE $\frac{1}{4}$ of Section 5, Township 16N, Range 10W and the NE $\frac{1}{4}$ Section 8, Township 16N Range 10W in Howard County to allow liquid hog waste to be applied through pivots. Dave Sack seconded the motion. No additional conditions were added to the application. Motion carried 7-0 roll call vote. Finding of fact was completed and is attached.

At 8:50 PM a Public Hearing was opened to update the Howard County Zoning Regulations pertaining to Confinement Operations with Pit Buildings A-1, Conditional Uses, #6-A6. "Confinement operations with pit buildings with or without lagoons will multiply the setback distance for each class of open pen setbacks by 1.5." Administrator Klinginsmith stated that she has proposed removing the words "or without" from the second paragraph on page 91 of the Howard County Zoning Regulations. Chairman Spilinek asked for testimony in favor or opposition. Dave Harrington stated that he feels with today's technology the multiplied setback is no longer necessary and he is in favor of updating the regulations. With no further comment the public hearing was closed and discussion was had by the board. After much discussion Jeff Christensen made a motion to approve changing the minimum setback from confinement operations with pit buildings without an outside lagoon, to the same setback as those without pit buildings. To clarify: the only instance where the setback would be multiplied by 1.5 is those operations with pit buildings and lagoons. Dave Sack seconded the motion. Motion carried 7-0 roll call vote. Finding of fact was completed and is attached.

At 9:00 PM a Public Hearing was opened on a rezone application by the Village of Elba. They are requesting to rezone part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ Section 10, Township 15N, Range 11W from R-1 Residential District to C-S Highway Service District to allow for a, Ag business to buy and build on the lot. Administrator Klinginsmith stated that this follows our comprehensive plan. There was no testimony in favor or opposition. The public hearing was closed and discussion was had by the board. After a short discussion Dave Sack made a motion to approve the Village of Elba's Rezone Application to rezone part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ Section 10, Township 15N, Range 11W in Howard County. Jeff Christensen Seconded the motion. Motion carried 7-0 roll call vote. Finding of fact was completed and is attached.

The next discussion was on the Marvin Welty Subdivision located in SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ Section 29, Township 13N, Range 11W. This subdivision was approved on April 18, 2012 and consists of 3.074 acres in the A-3 zoning district. Klinginsmith stated that this does not follow the Howard County Zoning Regulations, where in A-3 zone, a minimum lot area of 80 acres is required to build a residence. However when it was subdivided in 2012 it was clearly stated that he planned to build a residence on the property. After much discussion the board



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stated that the property is not in the flood plain and they recommend approving a zoning permit based on the approved subdivision and meeting minutes from April 18, 2012.

Discussion on Solar Energy Regulations will be tabled until the next meeting.

With no further business Jeff Christensen made a motion to adjourn the meeting. Daryl Anderson seconded the motion. The next meeting is tentatively scheduled for June 19, 2019 at 8:00 PM.

Nancy Usasz, Secretary