

Howard Planning and Zoning Minutes



MINUTES HOWARD COUNTY PLANNING & ZONING October 20, 2021

A meeting of the Howard County Planning & Zoning Commission was convened in Open and Public session on the 20th day of October, 2021.

Chairman Terry Spilinek called the meeting to order at 8:00PM and the Open Meeting Act was recognized. Administrator Cherri Klinginsmith read the Notice of Meeting. A proof of publication is filed at the Howard County Clerk's Office. Roll call showed 5 members present, Kenneth Kozisek, Daryl Anderson, Jeff Christensen, Jack Reimers, and Terry Spilinek. Absent members: Ron Kulwicki, Dave Sack Chris Kosmicki and Randy Kauk. Also, present were Cherri Klinginsmith Planning & Zoning Administrator and Dave Schroeder Howard County Attorney. Members of the public present were: Audrie Robinson, Karlie Mamot, Brian Robinson, Theresa Robinson, Brandt Bottolfson, Tylor Robinson, Cathy Allen, Dustin & Nicole Ruzicka, Kathy Hirschman, Nate Timmons, Brandon and Erin Nowak, Alan Griebel, Michael Happ, Jordan Robinson, Jessica Herrold, Rick Kraft, Rose Dixson, Steve and Sandra Leiningner.

The agenda and minutes were mailed to the board members prior to the meeting. A motion was made by Jeff Christensen and seconded by Jack Reimers to approve the minutes of the September 15, 2021 meeting. The motion was carried on a unanimous voice vote.

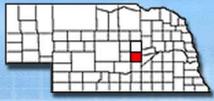
Administrator Report: None

At 8:05PM a Public Hearing was opened for a Single Lot Subdivision by Julie Poss, Poss Administrative Subdivision in the SE ¼ section 27-15-10. Julie was not present for meeting. Administrator Klinginsmith represented the plat to the board. The subdivision consist of 31 acres in the A-2 zoned district and is requesting to be split off into 2 lots of 12.8 and 18.2 acres. With no testimony in favor or opposed, Terry Spilinek closed the public hearing. Discussion by zoning board included Ken Kozisek asking if the lots were in the floodplain, Klinginsmith verified that both lots are out of the floodplain. A motion was made by Ken Kozisek and seconded by Jeff Christensen to approve the Poss Administrative Subdivision. Motion carried by 5-0 Roll Call Vote. Finding of Fact attached.

Next on the agenda was a discussion regarding the tabled item of changing the center lines for the odor footprint design, from September 15, 2021 zoning meeting. Klinginsmith stated she had a request to put a feedlot in the NW ¼ of section 4-13-9 on the 2 west pivot corners with an alley in the center. A neighbor had requested for the zoning board to review for using 2 center points, a point at each corner instead of the center of the alley between the two corners. After much discussion it was decided to not change the regulations on odor footprint procedures. It was also confirmed that the previous odor footprint presented at September's meeting was incorrect after discussing with the 3rd party-gWorks, who develops the odor footprint for the Howard County Planning and Zoning. Along with finding out the corrected odor footprint included a residence to the south, therefore the feedlot applicant redesigned the feedlot area to not include the south corner and alley and using the north pivot corner only for the feedlot area. This allows the corrected odor footprint to exclude any residences.

Tyler Robinson asked to speak, along with presenting a power point presentation. Jordan Robinson requested to have the minutes of September meeting read first. Administrator Klinginsmith read the minutes from September 15, 2021 meeting.

At 8:20 pm A Public Hearing was opened for a Multi-Lot Subdivision Application by Jerald E. Hirschman and Dirt Road Development LLC located on the E ½ of NE ¼ Section 5-13-9. Tyler Robinson was present to represent the request and started off with a power point presentation of what the zoning board requested of him at the September meeting. Tyler



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presented the topographical elevation map and stated there is less than a 20' elevation change and drains from the west to east. He is meeting the NRD, (Natural Resource District) rules which state no more than one well per residence for a minimum of 3 acres. Tyler contacted the RPPD (Rural Public Power District) that stated there is enough capacity there to serve the 26 residences and Lee Obermeier reviewed the plat and stated there is more than sufficient easements to service the lots. Tyler also contacted the USDA, (United States Department of Agricultural) for soil service analysis and stated that 92% of the soil is good for residences with basements. Tyler has submitted a copy of the restrictive covenants, which include the locations of where the septic systems and wells can be placed from where the home is located.

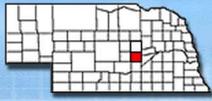
Tyler disputed the odor footprint drawn, the zoning board stated this is not a true feedlot, but a pivot corner that gets cattle grazed on it over the winter and the shape of the feedlot makes the odor footprint look a little distorted, with the animals grazing the land for over 6 months is the only reason for odor footprint being placed. The cattle will be there approximately 7 months and the odor footprint doesn't prohibit a residence from being placed because we have a waiver policy. If the two owners will sign the waiver it doesn't prohibit from the residence being built.

Jordan Robinson applied for a zoning permit which was denied until a CUP (Conditional Use Permit) is received.

Chairman Spilinek asked if Administrator Klinginsmith would read the timeline she has on file. A timeline was read by Klinginsmith which is attached. Tyler Robinson finished his power point which included why the Subdivision should be allowed. The zoning board stated both uses are allowed and they need to learn how to co-exist. Kathy Hirschman asked Administrator Klinginsmith what the description of the road was, Klinginsmith stated she spoke to the County Road Superintendent and was told the road is a good road and would handle the traffic. Tyler continued his power point and discussed the Howard County Feedlots in Howard County. At 9:00 pm the County Attorney was going to leave the meeting so Chairman Spilinek asked, how are we to determine who was first, is it when a person applies or when the application is approved? County Attorney Schroeder stated it is when the person applies. It was also asked if the Hirschman Feedlots were adjacent to each other and County Attorney Schroeder stated no. The County Attorney Schroeder left the meeting. After much more discussion at 9:15pm the chairman asked for testimony in favor, several hands were raised, testimony opposed, there was no one opposed. The Public hearing was closed and discussion by planning and zoning. The zoning board discussed the original discussion of changing the points of an odor footprint. It was noted that a subdivision application and an odor footprint application can come in at the same time, as we know the intentions of what is to be placed in the subdivision but until there is a zoning permit to build a residence the subdivision and odor footprint can co-exist. Once a zoning permit is received and if the residence would be within the odor footprint a CUP for a nuisance Easement Waiver would need to be approved prior to approving the zoning permit to build. Therefore the timing of the subdivision and odor footprint are irrelevant. The zoning board felt at this time there is no need to change their odor footprint procedures. Jordan stated she submitted a zoning permit to build on the 80 acres, and the odor footprint was changed after that, so would her zoning permit be first? It was noted the odor footprint and subdivision applications were received on 8-24-2021 and the zoning permit was on 9-28-2021. It was denied as it was within the odor footprint boundary. Jordan asked if the landowner signs a waiver my zoning permit could be approved, the administrator Klinginsmith stated yes, with a CUP Waiver application being received and approved.

The board agreed they do not approve the odor footprints and therefore the tabled discussion is not an issue and they are not changing the odor footprint procedures.

A motion was made by Jeff Christensen and seconded by Jack Reimers to give final approval for plat of the multi-lot subdivision presented. Administrator Klinginsmith noted that the road name needs to be listed prior to submitting a public hearing to Howard County Commissioners. Motion carried by 5-0 Roll Call Vote. Finding of Fact attached.



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Administrator Klinginsmith informed the applicant Tyler Robinson that the next Commissioners meeting is November 23rd and the zoning office will need the Mylar with the road name included before the commissioners will hear the application. Tyler stated he has a year to do this correct? Administrator Klinginsmith stated yes.

Next on the agenda was the discussion to divide off less than 80 acres in A-3 for a residence. This is located along the south side of river of N ½ of section 14-15-9. Administrator Klinginsmith stated back in December of 2019, Steve Leininger asked if the home site can be divided off from the 150 acres. Now in September of 2021 attorney Cathy Allen is asking the same request. At which both times the administrator have told them that she could not approve without talking to zoning board and possibly board of adjustment. Cathy Allen stated the land owners are getting up in age, and wanted to sell the home site off from the remaining ground so it would sell easier. This is the only home in the quarter section. The zoning board asked if this is a lot of record. The land is located in A-3 and in gov't. Lots 1, 2, 3, and 4. After much discussion it was decided that if the house is located on a lot of record, then that lot of record could be divided off, with a minimum of 3 acres. As example the house is on lot 3 of 10 acres that lot can be split off from the remaining lots, 1, 2 and 4. However, you cannot have lot 3 and have a portion of gov't lot 4, to make a new lot. To verify, if it's not the complete gov't lot or lots as they are now, this board cannot approve, then you would have to apply to the board of adjustment if you want to split one of the gov't lots. Also if gov't lots are over 20 acres the zoning board would not be involved unless you're wanting to split a gov't lot. Then again the Board of Adjustment would need to hear the application.

Next on the agenda was Administrator asking the zoning board to implement a zoning permit compliance form. Klinginsmith borrowed a couple neighboring zoning administrators' forms to keep track of finished zoning permits. It was suggested to use an on-line calendar for the office, however Administrator Klinginsmith noted with different secretaries and zoning administrators the software changes and this form would help keep track of finished permits. A motion was made by Jeff Christensen and seconded by Ken Kozisek to adopt the new compliance form for zoning applications. Motion carried 5-0.

The agenda item of rezoning land from I-1 to A-2 along highway 281 was next. The Martinson Vet clinic is up for sale and the Zoning Administrator has received several calls on if this land can be rezoned back to A-2 or a portion of it be rezoned back to A-2. Dustin and Nicole Ruzicka was present to ask the board some questions. They are wanting to know if they could have their Floor-It business there and storage and maybe in the future split land off for a residence. Administrator stated it was in 1992 when the zoning board rezoned the 10 acres to I-1 (Light Industrial) back when spot zoning was taken place. After discussion the board agreed A-2 would be in line with what else is around Highway 281. If landowner wants to build a residence it would need to be rezoned to A-2, then a CUP for a store front.

Next item on Agenda is the property located on NW ¼ Section 7-14-9. Administrator informed the board that we have discussed this property before due to junk and insulation from trailer houses being moved onto the property and debris is flying around neighboring landowner's yards and county road. At this point there are three trailer homes at site. Administrator spoke to Todd Tobler who is the renter of land who states he is wanting to repair the trailers and move them to Central City to sell. He is needing 8 to 9 months to get the trailers repaired and sold. After administrators discussion with renter it was decided that this is not an allowed use in A-1 zoned land. Therefore, administrator sent a letter to landowner and spoke to renter that a CUP would be required.

The Zoning board asked, can a CUP be given to something that is out of compliance already? The renter stated the trailer home that was pulled onto the property by Howard County Sheriff is in bankruptcy and the renter will not touch that trailer. The other two trailers are from Central City and he wants to fix them and sell them off. Dan Buhrman the landowner, called administrator to state the renter is a great mechanic and he can fix any automobile, however this is not what the renter is doing here. Administrator stated she will give landowner 30 days to have trailer homes removed



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from property, then 15 days, then it will advance to County Attorney for prosecution, if no action has taken place within the 45 days. A motion was made by Jeff Christensen and seconded by Ken Kozisek to reject the CUP for the property located in NW ¼ section of 7-14-9. Motion carried 5-0

Next agenda item is discussion of Campsite 911 address: Administrator informed board that back in 2017 we informed the land owner of land located in NE ¼ of section 14-15-11 that no more building of permanent structures will be allowed. In September of 2021, one of the renters of a lot is asking to rebuild their deck a little larger, which requires a zoning permit. With a zoning permit the county is also required now to give out 911 address. How do you want the administrator to handle? After much discussion, a motion was made by Jack Reimers and seconded by Jeff Christensen to require a 911 address on each lot in the NE ¼ of section 14-15-11. There will be a main address and each lot will be numbered; Lot 1, Lot 2, Lot 3 etc..... Motion carried 5-0 by Roll Call Vote.

Last item on the agenda was discussion regarding a land purchase of 1 acre to adjoining land owner. Landowner to the east is purchasing 1 acre from landowner to the west to add the 1 acre to their existing 153 acres. They are not allowed to create a separate parcel. Administrator Klinginsmith stated that she would like to start a file of these instances that come up, just so it's in the minutes that a new parcel is not being created. A motion was made by Jeff Christensen and seconded by Ken Kozisek that a subdivision is not needed to add an acre to the adjoining land owners land and will not create a separate parcel. Motion carried 5-0 by Roll Call Vote.

Jack Reimers moved to adjourn the meeting and Jeff Christensen seconded the motion. Motion passed by a unanimous voice vote.

Cherri Klinginsmith,

Howard County Planning & Zoning Administrator