

**Howard County Planning & Zoning**  
**February 15, 2023**

A meeting of the Howard County Planning & Zoning Commission was convened in Open and Public session on the 15<sup>th</sup> day of February 2023.

Chairman Terry Spilinek called the meeting to order at 7:00 P.M. and the Open Meeting Act was recognized. 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, Randy Kauk, Kenneth Kozisek, Jeff Christensen, Chris Kosmicki and Terry Spilinek. Absent members: Ron Kulwicki, Jack Reimers, and Dave Sack. Also present were Cherri Klinginsmith, Planning & Zoning Administrator and Jennifer Ostendorf, Planning and Zoning Secretary. Dave Schroeder, County attorney was absent. Members of the public were: Janet Thomsen, Jane Kasson, Tom Kasson, Trudy Roschynski, Shelly Wolinski, Kevin Lukasiewicz, Pam Jerabek, Josh Jerabek, Lonny Thomsen, Tylor Robinson, Venessa Petersen, Tyler Petersen, Lynda Berggren, Bruce Evans, Dane Berggren, Bryan Robinson, and Robin Irvine.

The agenda and minutes were mailed to the board members prior to the meeting. A motion was made by Ken Kozisek and seconded by Jeff Christensen to approve the minutes from the December 28<sup>th</sup>, 2022 meeting. Motion carried by unanimous a voice vote.

Administrator Klinginsmith let the board know that the NPZA meeting has been moved back to March as it was in the past. The next meeting will be March 8-10, 2023 in Kearney. She will be emailing them a link to the schedule so that the board can look it over and attend if they would like. The cost of the conference is covered by the Planning & Zoning Office, just let Cherri know if interested in attending.

**At 7:05 P.M. a Reorganizational meeting was held with election of officers.** Chairman Spilinek asked for nominations. Chris Kosmicki made motion to leave all officers in their current positions. Terry Spilinek – Chairman, Jack Reimers – Vice Chair, Daryl Anderson – Secretary. Motion was seconded by Ken Kozisek. Motion was passed by 6-0 roll call vote.

Randy Kauk, Ron Kulwicki and Terry Spilinek were reappointed for another 3-year term. Terry Spilinek was reappointed as the representative for the Board of Adjustments.

**Public hearing for a Conditional Use Permit Application by Kevin Lukasiewicz requesting to expand the feeding operation from 950 animal units (A.U.) to 2500 animal units (A.U.) along with an increase in the feeding area, remaining a Class 1 feeding operation. This also includes nuisance easement waivers. SE ¼ Section 15-16-10** Kevin Lukasiewicz was in attendance to represent his application. Kevin explained to the board that he has hired an engineering firm out of North Dakota to draw up the plans for his expansion from 950 animal units to 2500 animal units. He also stated that there was 4 - NRCS office representatives out this past Monday to take a look at the property and proposed expansion area and the engineered plan. Also noted that the berms shown in the plan will be 1-2 feet tall but pretty wide. The plan also shows the berms to be seeded to some sort of grass vegetation to help with run off and erosion.

Chairman Spilinek opened the floor for public comment in favor. Tyler Petersen spoke in favor of the feedlot expansion stating that its good to have cattle on feed and 2500 head in today's world is still relatively small. He also states that this would be good for the community as Kevin buys most of his feed locally.

Chairman Spilinek opened the floor for public comment in opposition. Janet Thomsen spoke against it stating that her family has land adjacent to the feedlot. She states that there is already a problem with run off onto their fields. Janet also stated that this will be adding more than twice the amount of cattle than Kevin has now but, according to the presented plan the pen size will be smaller. She also asked where will the lagoons be drained. If going to drain by pumping thru a pivot, her worry is that the hills on the field are steep and will have run off problems from that as well. She also commented that the odor goes right over her mother-in-law's house. Tom Kasson spoke against the expansion stating that the plan shows berms on the south side of property. He said that 22<sup>nd</sup> Ave already has problems when it snows and that the road blows shut. By the addition of berms, Tom's concern is that the problem will only get worse. Jane Kasson was present to speak against the expansion. Her concerns were the smell that the expansion would cause and later down the road when she sells her farm that her property will sell for less because of the odor. Lonny Thomsen was also present to speak against the expansion. Lonny's concern was the dust from the de-vegetated pens when the weather is dry like it was this past year. He states at times it was very hard to see and at times couldn't even see across the road. He also asked what the plan was for the large piles of manure that are currently stored on the west side of property and where will the run off go from the piles.

With no further testimony in favor or against Chairman Spilinek closed the public hearing.

Discussion among the board started by Daryl Anderson asking Administrator Klinginsmith if the new proposed odor foot print would encompass Loraine Thomsen's house. Klinginsmith said that she spoke to g-Works about it and they said that the house is 25-30 feet outside of the odor footprint. Administrator also stated the proposed pens that Janet mentioned, currently are allowed to have 950 head and with the new site plan, these same pens are limited to hold a total of 500 head, less than allowed now. Klinginsmith also read a statement from the engineer, since he was not able to attend the meeting, and that read as follows: *"For the runoff, I think there is still some confusion here unless the neighbors are upset that there would no longer be runoff coming off Kevin's property. The berms and diversions will need to be constructed in order to cut off all runoff from the proposed pen areas from leaving the property. So, there will need to be quite a bit of dirt work done in order to either build the berms up or cut the diversions out in order to cut off drainage and redirect the runoff to the pipes which will flow underground and take the runoff to the lined holding ponds".* By Casey Duppong, DGA Engineering.

Terry Spilinek asked Kevin if he had a plan to drain the lagoons. Kevin states that his plans are to go to the NRCS office in Ord to apply for certified irrigated acres and put a pivot up and pump the lagoons thru the pivot. Board member Randy Kauk told the board members that he is on the NRCS board and he does know there is a pool of acres available for certified irrigated acres so he was pretty confident that if Kevin applied for the acres there should be some available. Randy Kauk stated to the board that he thought that the engineered plan was created to keep all the run off and other worries from citizens at bay. He states that these engineers work with NDEE and NRCS to make the proposed plans work and if Kevin doesn't follow the plan NDEE and NRCS will not approve the expansion. Jeff Christensen told Kevin that he appreciated the engineered plans and agreed

with Kauk that the plans are drawn up and put in place to prevent run off and other things of concern from happening.

With no further discussion Daryl Anderson moved and Randy Kauk seconded the motion to approve the Conditional Use Permit Application for Kevin Lukasiewicz to expand feeding operations from 950 animal units to 2500 animal units pending approval by NDEE & NRCS per the existing plan, along with the CUP for the Nuisance Easement Waivers. Motion carried 5 in favor and 1 abstained. Finding of Fact attached.

**Public hearing for School House Subdivision a single lot subdivision application by Bruce D Evans W ½ NE ¼ Section 3-14-12** Chairman Spilinek opened the public hearing and Bruce Evans was present to represent his request. Bruce explained to the board that he had someone approach him about buying a few acres of land from him. He has had the land surveyed and an easement is included with the property. With no testimony in favor or against the public hearing was closed. After some discussion among the board was had, Jeff Christensen made a motion to approve the School House Subdivision by Bruce Evans located W ½ NE ¼ Section 3-14-12. Chris Kosmicki seconded the motion. The motion was passed with 6-0 roll call vote. Finding of Fact attached.

**Public hearing for Conditional Use Permit Application by RiversEdge LLC, Wendy Johnson landowner, requesting to operate a Bed & Breakfast or similar business – NW ¼ Section 11-15-11.** Administrator Klinginsmith was present to represent request. Klinginsmith let the board know that all the requirements for this request have been made. In the zoning regulations, Bed & Breakfast is allowed and after calling a few other counties regarding VRBO or Air BNB's, she thought this would be considered the same use, and used those guidelines along with the state of Nebraska requirements for the proposed use.

Chairman Spilinek opened the public meeting asking for testimony in favor. There were two people present in favor saying they thought it would be nice to offer. With no testimony against, the public hearing was closed. After discussion among the board Jeff Christensen moved to approve the Conditional Use Permit by RiversEdge, Wendy Johnson landowner requesting to operate a Bed & Breakfast or something similar located in the NW ¼ Section 11-15-11. Motion was seconded by Ken Kozisek. Motion was passes by 6-0 roll call vote. Finding of Fact attached.

**Public hearing for Tri-County Farms Subdivision a Single Lot Subdivision Application by Robin R. Irvine, 68 Circles LLC, president – SW ¼ 32-13-12** Chairman Spilinek opened the public hearing. Robin Irvine was present to represent his request. Robin told the board that they are wanting to sub-divide off the pivot corner where there use to be an old dairy, so that his son and his fiancé could build a house. There are currently buildings there, but the house burned down several years ago. With no testimony in favor or against the public hearing was closed. After discussion among the board, Chris Kosmicki made a motion to approve a single lot subdivision application by Robin R Irvine, 68 Circles LLC President, named Tri-County Farms Subdivision located SW ¼ Section 32-13-12. Jeff Christen seconded the motion. Motion was passed with 6-0 roll call vote. Find of Fact attached.

**Public Hearing on Rezone application by Dana & RaeJean Hawk, landowner, requesting to rezone property from C-S (Highway Service District) to R-1 (Residential Single-Family District) SW ¼ NW ¼ 21-13-9** Chairman Spilinek opened the public hearing. Dana and RaeJean Hawk were present to represent their request. They explained to the board that they purchased the property in St. Libory that use to be a business and they would like to convert it to a house. In order to do that they need to have the property rezoned from commercial to residential. Administrator Klinginsmith told them since it was stated in the covenants that the property is commercial, they would need to have a vote of over half the landowners agree to change the covenants. The Hawks gathered signatures from a majority of the property owners stating they were in favor of the rezoning of the property. With no testimony in favor or against the public hearing was closed. Discussion amongst the board was had. Ken Kozisek asked Administrator Klinginsmith if the signatures needed to be verified. Klinginsmith said she would speak with the County Attorney. With no further discussion Jeff Christensen moved to approve a rezone application by Dana and RaeJean Hawk, landowners to change zoning from C-S to R1 located SW ¼ NW ¼ Section 21-13-9. Motion was seconded by Randy Kauk. Motion was passed with a 5-1 roll call vote. Finding of Fact attached.

**2<sup>nd</sup> Public hearing regarding the amendments of Zoning Regulations for Wind Generator Facilities, Sanitary Requirements, updating wording on non-farm and ag operations and changing name of Nebraska Department of Environmental Quality (NDEQ) to Nebraska Department of Environment and Energy (NDEE) in all Planning and Zoning Regulations, Definitions and Matrix.** Chairman Spilinek opened the public hearing. Administrator Klinginsmith presented the board with the changes to the regulations that were discussed in the December 28, 2022 meeting. It was discussed to remove the definition of “tower height” from regulations all together and just leaving “total height” when discussing wind energy. It was also discussed to update the Nebraska Department of Environmental Quality to their new name of Nebraska Department of Environment and Energy, and use the acronym NDEE where it fits in regulations. Klinginsmith had all the changes of regulations in red and went through them with the board. With no testimony in favor or against the public hearing was closed. After discussion by the board, Randy Kauk made a motion to approve the changes to the Zoning Regulations Wind Generator Facilities, Sanitary Requirements, and changing name of Nebraska Department of Environmental Quality (NDEQ) to Nebraska Department of Environment and Energy (NDEE) in all Planning and Zoning Regulations, Definitions and Matrix. The wording for non-farm and Ag Operations was already changed last meeting. Motion was seconded by Ken Kozisek. Motion passed with a 6-0 roll call vote. Finding of Fact attached.

**Discussion & Possible Action – Gage Valley Vet Clinic allowed uses.** Administrator Klinginsmith brought it to the board’s attention that she received a call from Amber the Veterinarian from Gage valley vet letting her know that she is no longer working there. Amber has been receiving calls about the cattle at the clinic and area being used as a feedlot. She has been telling the callers that she no longer works there and gives them Cheri’s number to voice their concerns. Administrator Klinginsmith let the board know that she has reached out to Eric Blasé on January 31, 2023 asking him for the logs of cattle coming in and out of the clinic from January 1<sup>st</sup> to January 31<sup>st</sup>. As of tonight, no information has been received. Klinginsmith is wanting the opinion of the board, for if the use of processing the cattle there without a vet is still meeting the allowed use of an animal clinic according to our regulations in the Industrial zone. The board agreed that once the

information requested is received from landowner, for Klinginsmith to bring it back to the board for their review.

**Discussion & Possible Action – Lot 2 Melody Acres – Verify Uses** This property has a new owner and would like to verify the uses. The new land owner stopped in to discuss his options with the land. On this property there is a barn built in 1981 as a stable with 40 horse stalls in it. The new owner would like to know if it is ok that he has 40 horses on his property. The land is currently zoned A-3 but it has for many years had this barn with stalls in it. All sheds on property are one foot (1') above the BFE. Administrator Klinginsmith asked the board what their thoughts were about new owner having 40 horses on property? After discussion among the board, it was decided that the property would be grandfathered in and that it would be ok to leave the use as is. The land owner also requested to divide his lot into 2 lots. Administrator explained the process of vacating the existing Melody Acres Subdivision of 2 lots of 9.7 total acres and re-subdividing the property into 3 lots with each lot needing 3.0 + acres. Landowner of lot 2 will need to have lot 1 landowner agree to the changes.

With no further discussion Jeff Christensen moved to adjourn the meeting. Chris Kosmicki seconded the motion. Motion was passed by a unanimous voice vote.

The next Howard County Planning & Zoning meeting is tentatively scheduled for March 15, 2023 at 8PM.

Jennifer Ostendorf  
Planning & Zoning Secretary