

MINUTES

Madison County Joint Planning Commission
Norfolk, Nebraska
July 25, 2008

The July 24, 2008 meeting of the Madison County Joint Planning Commission was called to order by Chairman Grant at 8:00 p.m. at the Madison County Planning & Zoning Department located at 1112 Bonita Drive, Norfolk, Nebraska.

CALL TO ORDER/ROLL CALL – Consideration and/or action on:

PRESENT: Acklie, Belina, Grant, Marx, Murren, Nygren, Walahoski.

ABSENT: Bartee, Reigle, Sinclair.

Also Present: Mike Henn, Mary Pat Hoag, Mary Preister, Virgil Preister, Nancy Ulbert, John A. Johnson and Vickie Green.

Proof of Publications from the July 12, 2008 edition of the Norfolk Daily News was read into the minutes by Grant.

Grant announced, “The Open Meetings Act is posted on the wall and will be followed.”

ACTION ITEMS – Possible action on:

1. **Agenda as mailed:** John noted, “There were no new Lot Splits in June so there is no June Lot Split Report.”

Murren moved, second by Belina, to accept the Agenda as corrected. Motion carried.

2. **Minutes from June 26, 2008:** Acklie made the motion to approve the Minutes as mailed, second by Walahoski. Motion carried.

3. **Virgil & Mary Preister Conditional Use Permit Statement of Finding of Facts- E½, SW¼ 25-21N-3W of the 6th P.M., Madison County, Nebraska** – John read the following Statement of Finding of Facts into the Minutes:

1. The application is consistent with the Madison County Comprehensive Plan.
2. The application is consistent with the Madison County Zoning and Subdivision Regulations.
3. The applicant passed the Madison County Livestock Operation Siting Matrix.
4. The application is 400 head of feeder pigs to be located on 3 acres including the original farmstead.
5. A public hearing was held before the Madison County Joint Planning Commission on Thursday June 26, 2008.
6. That notice of said hearing was published in the Norfolk Daily News in the Saturday June 14, 2008 edition.
7. The applicants are not required by the Nebraska Department of Environmental Quality to apply for an operating permit for this facility.
8. The Madison County Joint Planning Commission has considered all aspects required to be considered in the Zoning Regulations including the property, size and location of the requested improvement, the use of the improvement, the use of the improvement, location and access to public roadways, adequate access to water, nearby residences and other non-agricultural uses within one mile of the property, water surface drainage and any issued related to wetlands and the setback requirements.

John continued with the suggested conditions he would recommend which are:

1. This is a small Confined Animal Feeding Operation Conditional Use Permit for 400 head of finishing hogs and up to five additional head equivalent of horses, cows, ducks, chickens and/or turkeys.
2. This Conditional Use Permit shall be for an unlimited amount of time subject to successfully passing an annual review of the Madison County Livestock Feeding Operation Siting Matrix and will become effective with adoption of a resolution by the Madison County Board of Commissioners.
3. This permit is subject to the Madison County Zoning and Subdivision Regulations, the laws of the State of Nebraska and the United States Government and shall be operated to comply with all of these entities.
4. Any new owner/operator of this operation must give notice to the Madison County Zoning Administrator 30 days prior to the closing date of the sale.

Acklie questioned Condition #4 asking, "When he sells to his son does he have to notify you?"

John answered, "Yes."

Murren queried, "Does the permit go to the applicant of with the land?"

John said, "To the land with the matrix being the way to enforce what happens on the property."

Acklie made the motion to recommend approval to the Madison County Board of Commissioners, second by Walahoski.

AYE: SEVEN (7)

NAY: NONE (0)

ABSTAINED: NONE (0)

Commissioners voting AYE: Acklie, Belina, Grant, Murren, Marx, Nygren, Walahoski.

Commissioners voting NAY:

Motion carried.

4. Henn House Dairy, Inc., Richard, Kenneth & Gerald Bierman Conditional Use Permit Statement of Finding of Facts-S¹/₂, NW¹/₄ 19-24N-2W; N¹/₂, NW¹/₄ 19-24N-2W AND NE¹/₄ 24-24N-3W of the 6th P.M., Madison County, Nebraska -

At 8:14p.m., Chairman Grant turned the meeting over to Vice-Chairman Acklie and removed himself from the proceedings because a possible Conflict of Interest.

Planning Commission members Belina and Nygren also stepped away due to their declared conflict of interest.

John read the Statement of Finding of Facts into the Minutes which were:

1. Planning Commission members Richard Grant and Brent Nygren declared a Conflict of Interest and did not participate in any phase of the Planning Commission's public hearing on the application.
2. The application is consistent with the Madison County Comprehensive Plan.
3. The application is consistent with the Madison County Zoning and Subdivision Regulations.
4. The applicants passed the Madison County Livestock Feeding Siting Matrix.
5. This meets the setback requirements.
6. The operation has a Conditional Use Permit issued under the previous Madison County Zoning Regulations.
7. The facility currently will expand to 2,000 dairy cattle and 1,700 feeder cattle and 1,000 heifers less than 550 lbs.
8. Mike Henn has partnered with his adjoining neighbors for this expansion project.
9. That utilizing a 25 year storm as a basis, surface water runoff of other drainage from the facilities of such use shall not flow directly or indirectly into any river, stream or other drainage way which would allow any untreated waste to contaminate surface waters. Further, the facility will not be located in areas subject to a 100-year flood.
10. The Zoning District in which the proposed use is to be located is zoned AG2.

11. A Public Hearing was held before this Planning Commission on June 26, 2008.
12. That Notice of Hearing was published at least 10 days prior to the hearing, said date or publication being June 14, 2008. Said publication was in the Norfolk Daily News and an affidavit of publication is on file at the Madison County Joint Planning Department Office.
13. That the design of manure collection, digestion and handling facilities and the methods of disposal of manure, dead animals and related waste and the methods of dust control are such that the use shall not generate odor or dust which will impact abutting or neighboring property more than occasionally.
14. That the applicants have not yet obtained any permits required to be issued by the Nebraska Department of Environmental Quality (NDEQ) for the expansion.
15. That this Board has considered all the aspects required to be considered in the Zoning Regulations, including the property, size and location of the requested improvement, the use of the improvement, location of access to public roadways, adequate access to water and sewage supply, parking considerations, nearby residences and other non-agricultural uses within one mile of the property in question, water surface drainage and any issues regarding wet land and the set back requirements.
16. Neighbors gave testimony on Mr. Henn's farming practices at off site locations.
17. Annual reports to the NDEQ and it's responses were submitted by Mr. Henn. These reports and related correspondence from NDEQ showed Mr. Henn is operating according to his NDEQ permit and is in compliance with his Manure Management Plan.

John offered these recommended conditions for consideration:

1. This is a Large Livestock Feeding Operation Conditional Use Permit after implementation of both phases for an operation of up to 2,000 dairy cattle and 1,700 feeder cattle and 1,000 heifers less than 550 lbs in addition to any farm animals not cattle, currently housed, raised, bred or in outdoor confine or pastured on the property.
2. This Conditional Use Permit shall be for an unlimited amount of time subject to successfully passing an annual review of the Madison County Livestock Feeding Operation Siting Matrix and will become effective with adoption of a resolution by the Madison County Board of Commissioners.
3. This permit is subject to the Madison County Zoning and Subdivision Regulations, the laws of the State of Nebraska and the United States Government and shall be operated to comply with all of these entities.
4. Any new owner/operator of this operation must give notice to the Madison County Zoning Administrator 30 days prior to the closing date of the sale.
5. This Conditional Use Permit shall become null and void if an application for the new waste handling facilities is not submitted to the Nebraska Department of Environmental Quality within two years of adoption of this Resolution.

Acklie asked if anyone had any questions or comments.

Hearing none, he asked, "What are your wishes?"

Murren moved, second by Marx, to recommend approval to the Madison County Board of Commissioners.

AYE: FOUR (4)

NAY: NONE (0)

ABSTAINED: NONE (0)

Commissioners voting AYE: Acklie, Marx, Murren, Walahoski.

Commissioners voting NAY:

Motion carried.

John stated, "County Attorney Joe Smith was at the last meeting and said as long as we have a quorum present to begin the meeting, then the number of those voting doesn't matter and you just need a majority vote."

At 8:23p.m., Belina, Grant and Nygren returned to the Planning Commission.

PUBLIC HEARINGS – Discussion and/or possible action on:

1. **Madison County Zoning & Subdivision Regulations Amendment to allow housing up to District Density levels as a permitted use with limitations in the AG1, AG2 and AT Zoning Districts** – John stated’ “This is from the list of suggested amendments from a while back.” He then read the suggested proposed descriptions which were:
 - a. Single-family dwellings on less than forty (40) acres, provided that the following minimum conditions are met:
 1. The minimum buildable lot is three (3) acres and meets all density requirements;
 2. The lot takes access from an improved county road or highway;
 3. Has tested soils at proposed septic field for proper septic suitability and presents a soil test for septic suitability with the zoning permit application;
 4. A well permit is secured and presented with the zoning permit application;
 5. Said lot and dwelling shall meet all density requirements of the District;
 6. Reads and signs a notarized receipt for the Nebraska Farm Bureau produced, Madison County edited version of the publication “Moving to the Country.”

Murren questioned the 3 acre lot size.

John explained, “That was primarily in Rural Residential areas, but was also intended for pivot corners too. Basically, what this will change is not needing a Conditional Use Permit as long as applicants sign the form.”

Grant opened the Public Hearing at 8:35p.m.

There was no one in attendance to testify in favor or opposition and no correspondence received.

Grant closed the Public Hearing at 8:36p.m.

Marx stated, “I like the 40 acre rule. When my son rides his four wheeler, the sheriff gets calls about the noise – we are in the country, get over it!”

Acklie added, “I think we should keep it to where we have a public hearing and the neighbors know about it.”

Belina said, “One thing with the way we have it now is the neighbors have a chance to be here for a hearing and if they don’t have that chance it’s going to come back on us.”

The Planning Commission chose to take no action on this proposed Amendment.

2. **Madison County Zoning and Subdivision Regulations Amendment for remove the 45 day submission requirement for Subdivisions and add Public Hearings for Subdivisions** – John said, “This is about the opposite of the previous Amendment.”

This would be handled like a Public Hearing for a Conditional Use Permit or a Rezoning. We would ask the applicant to supply the application, application fee and a property owner’s list within 1,000 feet from a registered abstractor. Notification letters would be sent out 10 days prior to the meeting and a Public Hearing Notice would be advertised in the paper 10 days prior.

Grant opened the Public Hearing at 9:05p.m.

There was no one in attendance to testify in favor or opposition and no correspondence received.

Grant closed the Public Hearing at 9:06p.m.

Belina moved, second by Marx, to recommend approval of the this Amendment to the Madison County Board of

Commissioners.

AYE: SEVEN (7)

NAY: NONE (0)

ABSTAINED: NONE (0)

Commissioners voting AYE: Acklie, Belina, Grant, Marx, Murren, Nygren, Walahoski.

Commissioners voting NAY:

Motion carried.

OTHER BUSINESS – Discussion and/or action on:

1. Livestock Friendly Discussion – John reported, “There are pros and cons both ways to this. I am fairly neutral and was when I spoke to Thayer County last week. They went the self-declared route. There are some positives and negatives for going both ways and I just thought I’d throw it out on the table for discussion. It is not required for a Planning Commission to hold a Public Hearing, but I recommend that you have one. A Public Hearing is required at the County Board level however.”

Belina asked, “Just what does it mean? We’re livestock friendly, but we turn more applications down.”

Murren added, “The Legislature doesn’t support it.”

Acklie stated, “As long as we still go by our Regulations, you can call us whatever you want.”

2. Administrator’s Report –

CITIZEN’S COMMENTS

ADJOURNMENT – There being no further business, Murren made the motion, second by Marx, to adjourn at 9:30p.m. Motion carried.

Larry Bartee, Secretary

Madison County Joint Planning Commission

(A COMPLETE TAPE OF THE MEETING IS KEPT ON FILE IN THE MADISON COUNTY JOINT PLANNING COMMISSION OFFICE.)