

## MINUTES

### Madison County Joint Planning Commission

Norfolk, Nebraska

The April 21, 2022, Meeting of the Madison County Joint Planning Commission was called to order by Chairman Acklie at 7:00 p.m. in the in the Madison County Planning Department Conference Room, 1112 Bonita Drive, Norfolk, Nebraska.

#### **Call To Order/Roll Call- Consideration and/or action on:**

**Present:** Acklie, Griffith, Milander, Westerman, Flood, Oswald, and Amen

**Absent:** Abler, Schapman and Prauner

**Also Present:** Jerry Guenther, Max Henry, Dana Kavan, Dennis Watts, Chad Roberts, Travis Caspersen, Bronson & Jill Stonacek, Todd Stonacek, Dawn Winkelbauer, Cleon Schwede, Ardith Borgelt, Jean Wickett, Lonnie Wickett, Mary Ellen Swim, Chad Schomberg, Lucas Winkelbauer, Duane Theil, Jim Marr, Andrew Ekstein and Zoning Administrator Heather McWhorter Zoning and Office Assistant Jennie Martinez.

**Open Meetings Act:** Acklie stated that the Open Meetings Act that will be followed.

**Proof of Publication:** Acklie stated the Proof of Publication Notice was published in the Norfolk Daily News.

**Minutes-March 17, 2022:** The minutes of the March 17, 2022, Madison County Joint Planning Commission meeting were presented.

Motion made by Griffith to approve the minutes and seconded by Amen.

Vote taken. Acklie, Griffith, Oswald, Flood, Milander, Westerman, and Amen vote "Aye" none vote "Nay".

Motion carried.

Acklie reads the first Public Hearing.

The purpose of this hearing is to receive public comments concerning the application of Brent Wisnieski dba BAWIZ Rentals for a Conditional Use Permit to Construct a storage barn for Battle Creek school buses on property described as Pioneer Town Site Company's 2nd Addition Part of Out Lot 1, Battle Creek, Madison County, Nebraska. This property is located at 100 E. McAllister St, City of Battle Creek, Nebraska.

Heather states that Brent is wanting to purchase the east portion of the lot below and build a structure to house the Battle Creek school buses. Battle Creek School leases the buses from a company that will be renting the building from Brent. She states that it is zoned residential and is a conditional use in this district if it is used for the BC buses. Brent is aware if at any time in the future the building is rented for another purpose a different CUP will need to be applied for.

Heather reads the Finding of Facts.

**Findings of Fact:**

1. This application is consistent with the city of Battle Creek Comprehensive Plan, Zoning and Subdivision Regulations and the Zoning Map.
2. A Conditional Use Permit is required for accessory buildings related to educational purposes in the R1 Residential district.

**7:02 P.M** Acklie opens the Public Hearing

Acklie asks if there is anyone in favor.

Brent Wisnieski speaks in favor. He states that the school is looking for a new location to park the school buses. He states that they approached him and asked if he would be willing to construct a building and be the landlord for the bus company. He states that the building will have 2 bays. It will be a mechanic shop or wash bay where the buses can come in to get the ice off. It will have a little office either inside or attached to the building. He states that it will be a simple deal.

Acklie asks about utilities.

Wisnieski states that it will be City water and sewer.

Acklie asks if the buses will enter off McAllister.

Wisnieski states that they will.

Milander asks the size of the building.

Wisnieski states that it will be 42X70 building and possibly a little L shape building for an office. He states if the office is built inside the building it will be 60X70. He states that they are still trying to figure it out with the layout of the lot and the flow of the buses.

Acklie asks if there will be buses and vans parked outside.

Wisnieski states that there will be. He states that the majority of them will be outside. He states that it is basically going to be a mechanic bay and a place for the buses to pull in to get the ice off in the winter.

Acklie asks if there is anyone else in favor.

No one speaks

Acklie asks if there is anyone opposed.

Jean Wickett speaks in opposition; 204 W McAllister resident for 42 years. She states that there are many reasons she is in opposition one being the conditions of the street. She passes out 7 photos (Exhibit A) to show the Planning Commission the conditions of McAllister Street.

Jean Wickett discusses with the Planning Commission the number of buses, number of trips each day, the bus drivers' vehicles each day, the weight of each bus and the average daily weight of 104.4 ton added to the residential area street. She states that weight for sporting events and extra school activities would be in addition to that. She gives examples using data from the 21 days school was in session in March. She states as of right now you must travel down the middle of the street. She states that all this weight on this road it will continue to deteriorate with no current plans to fix the street up.

Oswald asks if the street has a current weight limit.

Jean Wickett states that it does not.

Acklie asks if there is anyone else opposed.

Cleon Schwede speaks in neither opposition nor in favor but has some concerns. He asks if the fuel tanks will be moved to the location.

Wisnieski states that they did not talk about fuel tanks therefore not as of now.

Schwede states that he assumes that dirt will be moved in there and asks if there has been any thought to a flooding problem.

Wisnieski states that the area is not in the flood plain.

Heather states that it is not in the flood plain and explains that nothing is needed.

Wisnieski states that he does plan to bring in dirt to raise the building up to protect his investment.

Wisnieski states that it is his understanding after he spoke with the City Administrator that they are planning to put in new water lines and rebuild the street once that is done. He states that he is unsure when that is supposed to be done.

Amen states that there has been some talk of restricting the street according to weight.

Acklie asks if there is anyone else opposed.

Dana Kavan; 203 W McAllister speaks in opposition and states that recently purchased her property in October and loves the residential street and having a bus barn next to her bothers her.

Acklie asks if there is anyone else opposed.

Lonnie Wickett; neighbor, speaks in opposition. He states that it's a residential area and to put a bus barn in there would cover the nice green grass with concrete and rock. He states that he would rather see a house in there with a nice green yard. He states that there is enough traffic on that road the way that it is.

Acklie asks if there is anyone else opposed.

No one speaks.

**7:15 P. M.** Acklie closes the Public Hearing.

Acklie asks Heather if a rezoning is necessary.

Heather states that it is not because of what the use is however if he came back in the future and would like to do something industrial, we would have to look at that.

Heather reads the conditions.

**Recommended Conditions:**

1. This Conditional Use Permit will be for a period of ten years and will renew automatically with no verifiable complaints.
2. The permit is valid only while rented for the use of Battle Creek School District. If the situation changes the permit will become invalid and another Conditional Use Permit must be applied for the new use.
3. All setbacks and lot density requirements must be followed per City of Battle Creek Zoning Regulations.
4. A copy of the signed permit must be recorded with the County Register of Deeds office by applicant.
5. A zoning permit must be obtained from the Battle Creek City office before construction begins on the structure.

Acklie states that there is nothing that says that it can't be there.

Westerman states that he is torn on the situation as there is nothing that states that it can't be there as it's an allowable use.

Griffith makes a motion to approve based on the above recommended conditions. Flood seconds the motion.

Vote taken Acklie, Griffith, Milander, Flood, Amen, Oswald, and Westerman all vote "Aye". None vote "Nay". Motion carried.

Acklie reads the 2<sup>nd</sup> Public Hearing.

The purpose of this hearing is to receive public comments concerning the application of Dawn Winkelbauer for a Change of Zoning from Agriculture Transitional to General Agriculture on property described as the Northwest ¼ of Section 22, Township 24 North, Range 2 West of the 6th P.M. Madison County, Nebraska.

Heather states that the applicant is requesting rezoning from AT to AG2 to allow for a confined animal feeding operation of 525 head of cattle in a deep pit barn to be built in the Northeast corner of the section. She states that the property is contiguous with the AG2 district.

Heather states that a Pre-submission meeting was held prior to the regular meeting to review the application of Bronson and Jill Stonacek. She states that this property is where the Stonacek's plan to construct a feed lot and in order to approve their application this property must be rezoned. She states that much of the information regarding this rezoning was heard during the Pre-submission meeting.

**7:22 P.M.** Acklie opens the Public Hearing

Acklie asks if there is anyone in favor.

Andrew Ekstein on behalf of Setje Agri services speaks in favor. He gives background on the company. He shows a presentation to the Planning Commission that shows what they do and what they are planning with the Stonacek project.

Ekstein states that the Stonecek's are currently permitted to have a 299 head deep pit barn on the south. He states that originally, they wanted a deep pit barn on the north and open lot pens on the south; however, they found out that it is not permitted at all to put a deep pit barn to the north because of the location being next to a well head protection district. He states once they found that out, they started to work closely with the City of Norfolk and instead of putting 525 head to the north they swapped and now plan to construct one deep pit cattle barn to the south and open lot pens to the north.

Ekstein states that Jill and Bronson have a home within the setback but that there are no other homes. He states that the barn will be a monoslope building which needs to be sloped which will allow the drainage to go in the correct direction.

Ekstein states that one of the most important things to understand is that they can go 300 and 300 head without any conditions but to satisfy the City of Norfolk and Madison County they have voluntarily agreed to install ground water monitoring wells and will not to exceed 525 head.

Ekstein states that NDEE requires 180 days of pit storage. He states that once the rezoning and Conditional use permit are approved, they need will need state approval. He states that Setje's will have a ton of requirements outside of what Madison County requires. He states that they would be looking at late fall or even possibly spring before they would begin.

Ekstein states that they will also be required to have a nutrient management plan.

Acklie asks if there is anyone else that would like to speak in favor.

Jill Stonacek speaks in favor and states that she wants to build a barn and raise her kids in this atmosphere. She states that her and her sister currently do the record keeping of a 10,000 head facility, therefore knows how this type of operation goes. She states that she feels that the barn will be more efficient.

Acklie verifies that the property belongs to Jill's mother.

Acklie asks if there is anyone else in favor.

Dennis Watts of the City of Norfolk states that he is not necessarily in favor but believes this is the best scenario because they are allowed to have 300 head on each regardless. He states that the 3 monitoring wells will help out tremendously. He states that the main concern is the nitrates. He states that by allowing them to do what they want to do with the barn and having the 3 monitoring wells would help out a lot. He does request that under the conditions of the Conditional Use Permit state that any new owner would need to acquire a new CUP.

Acklie asks if there is anyone else in favor.

No one speaks.

Acklie asks if there is anyone opposed.

No one speaks.

**7:33 P.M.** Acklie closes the Public Hearing.

Milander makes a motion to approve based on the above conditions. Oswald seconds the motion.

Vote taken Acklie, Griffith, Milander, Amen, Oswald, Westerman and Flood all vote "Aye". None vote "Nay". Motion carried.

Acklie reads the next Public Hearing.

The purpose of this hearing is to receive public comments concerning the application of Bronson and Jill Stonacek to operate a medium confined animal operation of 525 head of cattle on property described as the Northeast corner of the NW ¼ of Section 22, Township 24, Range 2 West of the 6th P.M. Madison County, Nebraska. This property is located at 54913 Half Mile Rd, Norfolk, Nebraska.

Heather states that the applicants are requesting a permit to confine 525 head of cattle in a deep pit barn on the location labeled #2 in the pic below if the rezoning request is approved. The north property labeled #1 will have 250 head in an open lot which is allowed as a permitted use due to the size.

Heather states that the location of the north lot is in the Wellhead protection district which allows this as a permitted use. The south lot, which is what this request is for, is not located in the Wellhead district, however I have coordinated with the City of Norfolk and the Stonacek's to ensure that Norfolk City is satisfied with the proximity of the location. The city and the applicant have reached an agreement that includes monitoring wells and no increase of the number of cattle in the future, in exchange the City of Norfolk will not protest the application. It has been a pleasure working with a couple that has been so conscious of the surroundings and are willing to put in the extra work.

Heather states that a Pre-submission meeting to gather information prior to this Public Hearing.

7:35 Acklie opens the Public Hearing.

Acklie asks if there is anyone in favor.

Andrew Ekstein states that he is in favor.

Acklie asks if there is anyone else in favor.

Jill Stonacek states that she is in favor.

Acklie asks if there is anyone else in favor.

Dennis Watts states that he would like to add that the three monitoring wells be installed with the assistance of a hydrologist.

Acklie asks if there is anyone else in favor.

No one speaks.

Acklie asks if there is anyone opposed.

No one speaks.

**7:36 p.m.** Acklie closes the Public Hearing.

Heather reads the Recommended Conditions.

Recommended Conditions:

1. This is a Medium Animal Feeding Operation Conditional Use Permit for an operation of up to 525 head equivalent of feeder cattle, there will be no expansion of this number in the future due to the proximity to the Wellhead Protection District.

2. This conditional use permit shall be for a period of 20 years subject to successfully passing an annual review of the Madison County Livestock Feeding Operation Siting Matrix, implementing the additional conditions of this permit, and will become effective with the adoption of this resolution.
3. Three monitoring wells will be installed, one upstream and two downstream. Test will be conducted semi-annually to monitor for manure pit leakage and the results submitted to the Zoning office and the City of Norfolk.
4. This permit is subject to the Madison County Zoning and Subdivision Regulations, the laws of Nebraska and the United States Government and the CAFO permitted here shall be operated to comply with all these entities.
5. DEQ permits shall be made part of the file and an approved DEQ permit must be obtained before beginning the expansion.
6. 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.
7. A copy of the signed permit must be recorded with the Madison County Register of Deeds office by the applicant.

Flood makes a motion to approve based on the above conditions. Oswald seconds the motion.

Vote taken Acklie, Griffith, Milander, Amen, Oswald, Westerman and Flood all vote "Aye". None vote "Nay". Motion carried.

**Administrators Report:**

Zoning permits are discussed.

Oswald makes a motion to adjourn. Flood seconds the motion. All vote "Aye". None vote "Nay".

Meeting adjourned at 7:49 p.m.