

## **MINUTES**

### **Madison County Joint Planning Commission**

Norfolk, Nebraska

The July 16, 2020 Meeting of the Madison County Joint Planning Commission was called to order by Chairman Grant at 7:00 p.m. in the Madison County Zoning Office Conference Room, 1112 Bonita Drive, Norfolk, Nebraska.

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

**Present:** Abler, Acklie, Grant, Griffith, Oswald, Prauner, Flood and Milander

**Absent:** Westerman and Schapman

**Also Present:** Rob Huntly, Al Stephans, Andrew Elistein, Joyce Melcher, Floyd Melcher, Ron Leman, Don Eucker, Evan Eucker, Steve perry, Jerry Guenther, Patrick Hintz, Michael Amen, Ed Neidig, Alecia Neidig, Neal Neidig, Deb Neidig, Kay McLaren, Jerilyn Orlowski, Brent Weitfeld, Kristen Orlowski, John Orbush, Max Heny, Justin Amen, Darwin Blank, Karen Blank, Dawn Wiegand, David Wiegand, Theresa Perry, Zoning Office Assistant Jennie Martinez, and Planning and Zoning Administrator Heather McWhorter.

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

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

**Minutes-May 21, 2020:** The minutes of the May 21, 2020 Madison County Joint Planning Commission meeting were presented.

Motion made by Acklie to approve the minutes and seconded by Prauner.

Vote taken. Abler, Acklie, Grant, Griffith, Milander, Oswald, Prauner, and Flood vote "Aye" none vote "Nay". Motion carried.

Grant reads the first Public Hearing.

**The purpose of this hearing is to receive public comments concerning the application of Evan Eucker dba Eucker Pork LLC for a Conditional Use Permit for a Livestock Feeding Operation consisting of 2,499 hogs located on the SE ¼ of SW ¼ of Section 1, Township 21 North, Range 3 West of the sixth P.M., Madison**

**County, Nebraska. Property is located west of the City of Madison at intersection of 827th Road and 545th Avenue**

Heather states that the applicant is requesting a CUP for 2,499 hogs on property located in an Ag Intensive District. If his application is approved, he will request a lot split of 4 acres to build on in the southwest corner of the property. His matrix score was 360.

Heather reads the statement of Finding of Facts and the Recommended Conditions.

**Statement of Finding of Facts:**

- 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 score for this facility on the Madison County Livestock Feeding Operation Siting Matrix was 360 points, and 350 points are needed to pass.**
- 4. The feedlot setback is 1,320 ft. from the nearest dwelling; no dwellings are located within the setback. The nearest residence is over 2,500 feet away.**

**Recommended Conditions:**

- 1. This is a Medium Animal Feeding Operation Conditional Use Permit for an operation of up to 2,499 head of swine over 55 pounds.**
- 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, implementing the additional conditions of this permit, and will become effective with the adoption of this resolution.**
- 3. This permit is subject to the Madison County Zoning and Subdivision Regulations, the laws of Nebraska, the U.S. Government and Nebraska Department of Environmental Quality; the AFO permitted here shall be operated to comply with all entities. The Conditional Use Permit will be invalid if a permit is not obtained from NDEQ within one year.**
- 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. A zoning permit must be approved before any structures are built on the property.**

Grant states that a pre-submission meeting was held at 6:30 p.m. on July 16, 2020. He states that the matrix was reviewed during that meeting.

**7:04 p.m** Grant opens the Public Hearing.

Grant asks if there is anyone in favor.

Evan Eucker states that he is in favor. He states that farming is kind of hard to get in to and feels that this is a good way to get started.

Acklie asks if he will be custom feeding.

Eucker states that he will.

Grant asks who he will be contracting with.

Eucker states that the contract is with Cactus Farms. He states that they are new to the area.

Acklie asks where Cactus Farms is located.

Rod Leman states that Cactus Feeders is based in Amarillo, Texas, however Cactus Family farms is based primarily in Iowa. He states that their newest investment is in the Whole Stone Farms packing plant in Fremont. He states that they are very excited to grow their business in Nebraska.

Prauner asks if they plan to supply their feed locally.

Leman states that they plan to supply with the Lindsay Co op. He states that they will be using a Nebraska construction and engineering firm.

Grant asks if there is anyone else in favor.

Don Eucker; Evan Eucker's Father states that he is in favor. He states that this is a good opportunity for a young farmer.

Grant asks if there is anyone else in favor.

No one speaks.

Grant asks if there is anyone else opposed.

No one speaks.

**7:10 p.m.** Grant closes the Public Hearing.

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

Vote taken. Acklie, Griffith, Milander, Abler, Grant, Oswald, Prauner and Flood vote "Aye" None vote "Nay". Motion carried.

Grant reads the next Public Hearing.

**The purpose of this hearing is to receive public comments concerning the application of John and Kristen Orłowski for a Conditional Use Permit to build a house on less than 40 acres on ORŁOWSKI LOTSPILT on property described as part of the NE ¼ of the SW ¼ of Section 20, Township 22 North, Range1, West of the 6th P.M., Madison County, Nebraska. This property is located north of the City of Madison along 553 ½ Ave.**

Heather states that the applicant is applying for a lot split of 4 acres and would like to build a home on the property which they are purchasing from grandparents. Property is in an Ag Transitional District.

Heather reads the statement of Finding of Facts.

**Statement of Finding of Facts:**

- 1. This application is consistent with the Madison County Comprehensive Plan, Zoning and Subdivision Regulations and the Zoning Map.**
- 2. The property is zoned AT Ag Transitional and meets the density requirements for the Zoning district.**

**7:13 p.m.** Grant opens the Public Hearing.

Grant asks if there is anyone in favor.

Jerilyn Orłowski states that her and her husband, John are the grandparents and the property owners. She states that they are in favor.

Grant confirms that there are 4 acres.

John Orłowski states that there is.

Prauner asks if they will have their own septic and well

Jarilyn Orłowski states that there is not one there yet.

Prauner asks if there is access to the property now or if it will need a new one.

Jerilyn states that it will need a new access.

Grant asks if there is anyone else in favor.

John and Kristen Orlowski; grandkids state that they are in favor.

Grant asks if there is anyone else in favor.

No one speaks.

Grant asks if there is anyone opposed.

Ed Neidig states that he owns the property directly south and asks how this proposal meets the density requirements.

Heather explains that after this house is built the density for that area will be met.

Neidig states that according to the regulations it does not seem to meet the density.

Heather states that in an Agricultural Transition District you can have 4 homes not including the original farmstead within a quarter section.

Neidig asks why they would need a Conditional Use Permit.

Heather states that they would have to have more than 40 acres to not need a Conditional Use Permit.

Neidig states that his property has been a family farm for approximately 130 years. He states that the house was built in 1890 and they plan to move there in the next couple of weeks and plan to start farming.

Neidig asks if only 2 houses are allowed in the zoning district where Orlowski would like to build the house.

Heather states that in the Intensive Agricultural Zoning District there are 2 houses allowed per ¼ section but in Agricultural Transition District 4 houses are allowed.

Neidig asks when the area was transitioned.

Heather states that to the best of her knowledge its been that way for years.

Prauner asks how far the Orlowski house would be from Neidig's house

Neidig states that he does not know for sure the location of the Orlowski house on the proposed 8-acre lot but he would like to know what the additional land would be used for.

John Orlowski states that he would love for Neidig to come over to his property and give suggestions of where to place the new home.

Neidig states that he is afraid that the additional 3 acres the Orlowski's would have on that lot could be split off and another house built.

Heather states that once Orlowski's build their house no other residences can be built because the density will be met.

Neidig verifies that the house will be built on the south end of the field.

Heather states that it will and reviews survey with Neidig.

Neidig reads regulation #502 and states that he opposes the application because he believes that it would have a negative impact on the farming community that has existed for a number of years. He states that it is going to cause noise and traffic conditions.

Grant asks if there is a grove of trees.

Neidig states that there is a shelterbelt, but it is falling down, therefore not adequate.

Grant asks if there is anyone else opposed.

Deb Neidig speaks in opposition and states that this is an agricultural area. She states that the current farms have been with same family's for multi generations and likely to continue in those same family's for years to come. She states that the people who want to build a house may not care what goes on around them but what happens in 20, 30 or 50 years. She states that we need to protect the future ag land and the economy from urbanization.

Grant asks if there is anyone else opposed

Neal Neidig states that he is in opposition. He states that the last new building site was built 80 years ago. He states that it has been a farming community for a minimum of 80 years. He states that it is a family area and wants to see it stay that way.

Gant asks if there is anyone else opposed.

Kay MacLaren speaks in opposition. She states that she lives on that road in the newest farmstead put there in the 40's. She states that the traffic on that road now is crazy and she does not want it to get any worse.

Grant asks if there is anyone else in opposition.

No one speaks.

Griffith asks the grandparents how much land the grandparents own.

John Orlowski states that they own 120 acres besides the homestead.

Jerilyn Orlowski states that 4 acres would not take that much farmland.

Heather states that she would like to remind everyone that this area is in a Transitional Agricultural Zoning District and the nature of that district is to allow residential and agriculture to co-exist.

Jerilyn Orlowski states that as they said regarding family, we would like to have our family close by.

Ed Neideg asks why the new house has to be closer to him versus closer to the grandparents.

Jerilyn states that they do not want extra land on the other side and just take 4 acres off the end.

Prauner states that in the County we have lost a lot of residential areas that have been turned into farm ground.

Jerilyn states that the older people are moving away, and the younger people need to move in.

Kristen Orlowski states that they currently live on a farm which they have wanted to buy however the owner plans to tear the house down and change it to farm ground.

Prauner clarifies with John and Kristen Orlowski that they are aware of the smell, dust and other nuisances that go along with living in the country.

John Orlowski states that he has lived on the farm his whole life and is aware.

Deb Neideg states that the Country was built on agriculture and we need to look in the future.

Griffith asks if they feel that the new generation of farmers are going to want to build houses.

Grant asks if there is anyone else opposed.

No one speaks.

**7:31 p.m.** Grant closes the Public Hearing.

Oswald states that the area is really unique. He states that each side has good points. He states that the road has and always will have lots of traffic. He states that he understands why the lot split is where it is. He states that the house does fit the characteristics of the area.

Milander states that there are more houses in the County being knocked down than being built.

Acklie states that this fits all the requirements.

Abler makes a motion to recommend approval. Griffith seconds the motion. Vote taken. Members Abler, Acklie Grant, Griffith, Milander, Prauner, Flood and Oswald vote "Aye" none vote "Nay". Motion carried.

Grant reads the next Public Hearing.

**The purpose of this hearing is to receive public comments concerning the application of Patrick Hintz for a Conditional Use Permit to build a house on less than 40 acres on SUNDERMAN'S SOUTHEAST LOTSPILT on property described as part of the SE ¼ of the SW ¼ of Section 17, Township 24 North,**

**Range 2, West of the 6th P.M., Madison County, Nebraska. Property is located north and east of the City of Battle Creek along 843rd Rd.**

Heather states that the applicant is requesting a CUP to build a home on a 5.35-acre tract in an AG-2, General Agriculture district. The density is appropriate for the district. Property is located along a minimum maintenance road; however, applicant is working with the road foreman and Highway Superintendent and is bringing the road to improved standards before construction of home begins.

Heather reads the statement of Finding of Facts and the Recommended Conditions.

**Statement of Finding of Facts:**

- 1. This application is consistent with the Madison County Comprehensive Plan, Zoning and Subdivision Regulations and the Zoning Map.**
- 2. The property is zoned AgG2 General Agriculture and meets the density requirements for the Zoning district.**
- 3. Applicant is improving the road from minimum maintenance as part of an agreement with the county.**

**Recommended Conditions:**

- 1. This Conditional Use Permit is permanent and may be transferred between owners.**
- 2. This Conditional Use Permit allows a single-family home on less than 40 acres.**
- 3. With the passage of this permit, the applicant and/or residence builder realizes that the new residence is going to be subject to livestock odors, dust, and general nuisances. This does not mean that the applicant is giving up the right to be protected by Madison County and the State of Nebraska.**
- 4. The applicant should be aware it is his responsibility to remove any Nebraska Noxious Weeds found on the property at any time after the approval of this application by the County Board of Commissioners.**
- 5. A zoning permit must be obtained from the Zoning Office before construction of the home begins.**
- 6. A copy of the signed permit must be recorded with the County Register of Deeds office by applicant.**
- 7. Road must be upgraded from minimum maintenance at owners' expense prior to issuance of zoning permit for house.**

**7:41 p.m.** Grant opens the Public Hearing

Grant asks if there is anyone in favor.

Patrick Hintz speaks in favor. He states that he is from the Battle Creek area. He states that he comes from the farm and has been looking for ground for a while and found this one. He states that he will be building up 1800' of road.

Acklie asks if the west end of the road will still be closed.

Hintz states that it will. He states that it will continue to be minimum maintenance.

Abler asks if there is a house adjacent.

Heather states that there is a house to the east.

Grant asks where the entry would be.

Hintz states that it will be where it is now.

Grant asks if there is anyone else in favor.

No one speaks.

Grant asks if there is anyone opposed.

Mike Amen speaks. He states that he is not really opposed but asks when we are going to stop allowing some of these houses from coming to the country. He states that there are 3 dairies left in Madison County and asks why everybody wants to build around them and why we are letting it happen. Amen states that he can see it if the person is directly involved with the family farm.

Grant states that it says right in the Conditions that there are nuisances in the country and they have to accept that.

Amen states that he agrees that the area Hintz wants to build in is a beautiful area.

Hintz states that building a house there is one thing but if Madison County allows the wind turbines to come in there is not going to be any corners left. The wind towers are going to be in every pivot corners.

Oswald clarifies the Zoning District.

Heather states that it is General Ag.

Grant asks if there is anyone else opposed.

Max Henn speaks. He states that his father owns Henn House Dairy. He states that he is not opposed to building a house there but in five years the house could be sold, and the new neighbors may not want the dairies.

Griffith asks what the protection is for the dairies.

Heather states that the livestock waiver goes with the land. She states that the waiver is filed with the deed in the Register of Deeds office. She states that the Conditional Use Permit is for use of the land and it will go with the land in the event that the house is sold to a new owner.

Deb Neideg asks what will happen if the document goes with the deed and down the road someone decides they don't want the conditions of the CUP. She asks what happens to these farmers.

Prauner states that it will have to have a Public Hearing before anything can be removed.

Neideg states that we have to look out for future generations because agriculture is already suffering.

Heather states that in the future if regulations are amended that changes from that day forward. She states that anything that has happened prior to that date will stand as is.

Neal Neideg asks if someone challenges the CUP and complains, how long before it is enough and the CUP is revoked.

Heather states that this is a legal document and explains the process of revoking a CUP.

Grant asks if there is anyone else opposed.

No one speaks.

**7:57 p.m.** Grant closes the Public Hearing.

Acklie makes a motion to recommend approval. Prauner seconds the motion. Vote taken. Members Abler, Acklie Grant, Griffith, Milander, Prauner, Flood and Oswald vote "Aye" none vote "Nay". Motion carried.

Grant reads the next Public Hearing.

**The purpose of this hearing is to receive public comments concerning the application of Brent Weitfeld to spread bio-solids on pasture ground from the City of Norfolk Wastewater Treatment Plant located in the NW ¼ of Section 23, Township 23 North, Range 1 West of the 6th P.M., Madison County, Nebraska. Property is located south of the City of Norfolk at 83660 556th Ave**

Heather reads the statement of Finding of Facts and the Recommended Conditions.

**Statement of Finding of Facts:**

1. This application is consistent with the Madison County Comprehensive Plan, Zoning and Subdivision Regulations and the Zoning Map.
2. The property is zoned AG2 General Ag.

**Recommended Conditions:**

1. This Conditional Use Permit shall be for a period of five (5) years from the date of this resolution or with a change in ownership of the property.
2. There will be no storage of sludge on the property.
3. Spreading may occur year-round.
4. The City of Norfolk shall be solely responsible for the safe delivery and legal application of the stabilized wastewater solids to the property described in this permit.
5. By allowing the City of Norfolk to apply stabilized wastewater solids to the property described in this permit, the landowner assumes sole responsibility for the material applied by the city.
6. There will be no spreading of sludge within 500 feet of a neighbor's residence.
7. Sludge shall not be applied at a rate greater than the recommended agronomic rate based on crop type and soils.
8. Annual soil testing shall be done to ensure the application does not exceed the agronomic rate, and the annual soil test results shall be submitted to the Madison County Zoning Administrator annually. If excess nitrogen is detected, application at this location shall cease until reserve nitrogen levels have been reduced to allow applications of solids at an agronomic rate.
9. No sludge may be applied into standing water.

**8:01 p.m.** Grant opens the Public Hearing.

Grant asks if anyone is in favor.

Rob Huntly from the City of Norfolk speaks in favor. He states that they have been doing this forever. He states that it is heavily regulated. He states that this is a great place to spread. He states that they do soil sampling.

Prauner asks what time of the year they apply it.

Huntly states that they do it year-round. He states that this is pasture ground and they stay away from wells and open water.

Abler asks if there is someone who lives in the house that is located in the middle of the quarter.

Huntly states that there is no one living in the house.

Milander asks if they can spread on frozen ground

Huntly states that they can.

Grant states that it needs to be on level ground.

Huntly agrees.

Grant asks if the cattle can graze on it at the time its spread.

Huntly states that they have to be off of it for 30 days. He states that it is the same way with taking hay off of the land.

Grant verifies the location.

Huntly states that this is in the same location where Ben Baldwins property is and that they have been spreading on his land also.

Grant asks if there is anyone else in favor.

Brent Wietfeld; owner states that he is in favor.

Grant asks if he has ever had this spread on his ground before.

Weitfeld states that he has not. He states that the property needs the organic matters. He states that they rotate spreading to different areas of the property which is perfect for the cattle grazing. He shows a map of how the pasture is rotated for spreading. (Exhibit A)

Abler asks if the City will access of first street.

Weitfeld states that they will.

Grant asks if there is anyone else in favor.

No one speaks.

Grant asks if there is anyone opposed.

Steven Perry; neighbor to the south of #1(Exhibit A) states that he is not opposed. He states that he has spoke to Weitfeld about not spreading in a certain area by his place and now thinks that he and Weitfeld are fine.

Dawn Wiegand states that they own the property that is on the east side. She states that now they are ok with it. She states that initially they were afraid of seeing big piles of poo.

Huntly states that so many people are afraid of that but that's not the case. He states that it goes through the biological cycle before it is spread.

Grant asks if there is anyone else opposed.

No one speaks.

Grant reads a letter in opposition By Don Svitak. (Exhibit B)

Milander states that this is good for Ag.

Huntly states that it would be a shame to landfill it.

**7:57 p.m.** Grant closed the Public Hearing

Oswald makes a motion to recommend approval. Abler seconds the motion. Vote taken. Members Abler, Acklie Grant, Griffith, Milander, Prauner, Flood and Oswald vote "Aye" none vote "Nay". Motion carried.

Grant reads the next Public Hearing

**The purpose of this hearing is to receive public comments concerning the application of Brent Weitfeld to spread bio-solids on pasture ground from the City of Norfolk Wastewater Treatment Plant located in the E ½ of the E ½ of Section 24, Township 23 North, Range 1 West of the 6th P.M., Madison County, Nebraska. Property is located south of the City of Norfolk at the intersection of 837th Road and 558th Avenue.**

**Statement of Finding of Facts:**

- 1. This application is consistent with the Madison County Comprehensive Plan, Zoning and Subdivision Regulations and the Zoning Map.**
- 2. The property is zoned A1 Ag Intensive.**

**Recommended Conditions:**

1. This Conditional Use Permit shall be for a period of five (5) years from the date of this resolution or with a change in ownership of the property.
2. There will be no storage of sludge on the property.
3. Spreading may occur year-round.
4. The City of Norfolk shall be solely responsible for the safe delivery and legal application of the stabilized wastewater solids to the property described in this permit.
5. By allowing the City of Norfolk to apply stabilized wastewater solids to the property described in this permit, the landowner assumes sole responsibility for the material applied by the city.
6. There will be no spreading of sludge within 500 feet of a neighbor's residence.
7. Sludge shall not be applied at a rate greater than the recommended agronomic rate based on crop type and soils.
8. Annual soil testing shall be done to ensure the application does not exceed the agronomic rate, and the annual soil test results shall be submitted to the Madison County Zoning Administrator annually. If excess nitrogen is detected, application at this location shall cease until reserve nitrogen levels have been reduced to allow applications of solids at an agronomic rate.
9. No sludge may be applied into standing water.

**8:01 p.m.** Grant opens the Public Hearing

Grant asks if anyone is in favor.

Rob Huntly speaks in favor and states that this is a great piece of ground to spread on.

Brent Weitfeld states that he is in favor.

Grant asks if this is pasture

Huntly states that it is.

Flood asks what the odor level is.

Huntly states that it does have odor and the level depends on conditions. He states that it is treated and doesn't smell like the cattle yards. He states that the decayed process is already done when it is spread.

Grant asks if there is anyone else in favor.

No one speaks

Grant asks if there is anyone opposed.

No one speaks.

**8:28 p.m.** Grant closes the Public Hearing.

Prauner makes a motion to recommend approval. Flood seconds the motion. Vote taken. Members Abler, Acklie Grant, Griffith, Milander, Prauner, Flood and Oswald vote "Aye" none vote "Nay". Motion carried.

**Other Business:**

Zoning permits are discussed.

The gun range is discussed

Milander makes a motion to adjourn.

Prauner seconds the motion.

Members Abler, Acklie, Grant, Griffith, Milander, Prauner, Flood, and Oswald vote "Aye" none vote "Nay". Motion carried.

**8:46 p.m.** Meeting adjourned.