

MINUTES

Madison County Joint Planning Commission

Norfolk, Nebraska

The August 19, 2021, Meeting of the Madison County Joint Planning Commission was called to order by Vice-Chairman Oswald at 7:22 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: Amen, Griffith, Oswald, Abler, Schapman and Westerman .

Absent: Acklie, Prauner, Milander and Flood.

Also Present: Chris and Angela Sovereign, Duane Theil, Kevin and Julie Schulz, Jerry Doherty, Kenneth Porter, Jerry Guenther, Jim Marr, Roger and Jean Ellenberger, Lindsay Ellenberger, Adam Ellenberger, Zoning Administrator Heather McWhorter, and Zoning 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-July 22, 2021: The minutes of the July 22, 2021, Madison County Joint Planning Commission meeting were presented.

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

Vote taken. Amen, Griffith, Abler, Westerman, Schapman and Oswald vote "Aye" none vote "Nay".

Motion carried.

Oswald reads the first Public Hearing.

The purpose of this hearing is to receive public comments concerning the application of Christopher and Angela Sovereign to construct a home on less than 40 acres on property described as Part of the SE ¼ of the SE ¼ of the SE ¼ of Section 7, Township 23 North, Range 2 West of the 6th P.M. Madison County, Nebraska. This property is located South of the City of Battle Creek at the intersection of 547th Ave and 838th Rd Madison County, Nebraska.

Heather states that the property is approximately 3 acres and is in an Ag Transitional District. She states that the property was lotsplit in 2009 and a CUP is now requested to build a home.

Heather reads the Statement of Finding of Facts and 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 AT Agriculture Transition and meets the density requirements for the Zoning district.

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 her 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.

7:28 p.m. Oswald opens the Public Hearing.

Oswald asks if there is anyone in favor.

Chris Sovereign speaks in favor. He states that the property has already been split and ready to put a home in.

Oswald asks if there is anyone else in favor.

Angie Sovereign states that she is in favor.

Oswald asks if there is anyone is opposed.

No one speaks.

7:29 p.m. Oswald closes the Public Hearing.

Amen clarifies the location with Sovereign.

Schapman clarifies that Sovereign will build a shouse.

Sovereign states that he does plan to build a shouse.

Westernman makes a motion to make a recommendation to approve based on the above recommended conditions. Abler seconds the motion.

Vote taken Griffith, Oswald, Westerman, Schapman, Amen and Abler vote "Aye" None vote "Nay"
Motion Carried.

Oswald reads the next Public Hearing.

The purpose of this hearing is to receive public comments concerning the application of Roger & Jean Ellenberger to allow Commercial Dirt Removal on property described as the SW¼ of Section 12, Township 24 North, Range 2 West of the 6th P.M. Madison County, Nebraska. This property is located at 2710 North 61st Norfolk, Madison County, Nebraska.

Heather states that the applicant is asking for a permit to sell dirt to a commercial company. She states that currently the county purchases from this location and has had no issues. She states that a road haul agreement has been established with the Highway Superintendent to provide a route with the least impact on surrounding landowners.

Statement of Findings of Facts:

1. Applicant is currently selling dirt for county road purposes which does not require a permit as stated in Article 602, Madison County Zoning Regulations. A Conditional Use Permit is required to sell for commercial purposes.
2. Road agreement for route was agreed upon with Highway Superintendent Dick Johnson.
3. Property is in Ag Transitional district.

Recommended Conditions:

1. Topsoil shall be collected and stored for redistribution on the site at the termination of the operation.
2. Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than three to one (3-1) as soon as possible.
3. Within one (1) year after completion of the excavation on any portion of the site, the topography and soils shall be stabilized, and the land shall be graded, seeded, and sodded to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public.
4. Costs for any damage to the county roads or bridges used for access to the site which requires additional maintenance or repair for the normal county maintenance or repair because of additional traffic generated, shall be the responsibility of the owner of the property from which the soil is being removed. The determination of the costs and the method of repair and maintenance shall be prescribed by the Madison County Highway Superintendent.
5. The Road Haul agreement entered into by applicant and county shall be followed.

7:35 p.m. Oswald opens the Public Hearing.

Oswald asks if there is anyone in favor.

Roger Ellenberger states that he is in favor. He states that his intent is to take as much dirt from the hill on his place that he possibly can. When they are finished, he plans to change it back to grass.

Oswald asks if there is anyone else in favor.

Jean Ellenberger states that she is in favor. She states that she is hoping that by taking down the hill it will help keep the snow from drifting on Eisenhower.

Oswald asks if there is anyone else in favor.

Adam Ellenberger states that he is in favor. He states that this dirt can benefit local contractors as well as the neighbors. He states that this permit will allow them to sell the dirt.

Oswald asks if there is anyone else in favor.

No one speaks.

Oswald asks if there is anyone opposed.

Duane Theil speaks in opposition. He states that he is not opposed to the Ellenberger's doing this but voices concern with traffic on 61st street being the route that is used to haul the dirt. He asks if there is an alternate route if Eisenhower becomes impassable. He asks how long the permit will be good for.

Oswald states that the application is for 10 years.

Heather explains the road haul agreement between Ellenberger's and the County. She states that 61st street will not be used.

Theil states that things can happen and asks if the County would hire a 3rd party hauler if they would have to abide by the road haul agreement or could they use 61st St.

Heather states that she can not answer this question and they would need to talk to Dick Johnson regarding that issue.

Theil asks what they are supposed to do if they see someone driving down 61st Street.

Oswald states that he believes that we are getting into some details that this permit does not address.

Theil asks if this route that is being imposed is ok with the individuals that are hauling the dirt.

Abler states that if the permit states this is the route, then this is the route that has to be used.

Heather reads the agreement between Ellenberger's and any commercial dirt hauling. (Exhibit A) She states that she would like to point out that the company that was hauling the dirt is finished and the only people that are currently hauling dirt out of there is the County. She states that the County has been taking

dirt from there for a long time which does not require a permit. She states that this permit is just in case someone would come and want to purchase dirt the Ellenberger's can sell it to them.

Oswald asks if there is anyone else opposed.

Julie Schulz states that she does not have an objection, however states that in past agreements 61st Street was used and they were driving loud and fast.

Oswald asks if there is anyone else opposed.

Jim Marr states that he talked to Troy Uhler about the issue. He asks if any signage can be put along 61st street.

Amen states that Signage is an issue for the County Board to decide.

Marr asks for clarification on who would be responsible for Eisenhower if the road is damaged.

Heather states that she assumes that the County will continue to do normal maintenance and anything beyond the normal wear and tear will then be the responsibility of Roger Ellenberger to take up with the dirt haulers.

Oswald asks if there is anyone else opposed.

Heather reads to letters of opposition. One from Duane Theil and neighbors (Exhibit B) and one from Beverly Henkel (Exhibit C).

Kevin Schulz states that it is a danger to have trucks driving by on 61st St but if they will be using a different route it will be fine.

Oswald asks if there is anyone else that would like to speak in opposition.

Jerry Doherty speaks and states that he gets surprised by trucks often and would like to see enforcement to make sure that the established route is used.

Schapman states that 61st St is not on the proposed route.

Julie Schulz states that there are no speed limit signs on 61st St.

Oswald states that this is a topic that can be dealt with using other outlets.

Oswald asks if there are any other comments that someone would like to make.

Jean Ellenberger states that she lives on 61st street as well and she does not want the road beat up either. She states that is why they contacted Dick Johnson. She states that this will not go on for 10 years as there is not enough dirt for 10 years. She states that she feels confident with the alternative route.

Oswald asks if there is anyone else opposed.

No one speaks.

Oswald asks if there are any more comments.

No one speaks

8:05 p.m. Oswald closes the Public Hearing.

Abler makes a motion to make a recommendation to approve based on the above recommended conditions. Amen seconds the motion.

Vote taken Amen, Griffith, Oswald, Abler, Schapman and Westerman vote "Aye" None vote "Nay"
Motion Carried.

Other Business:

Zoning permits are discussed.

Problem properties are discussed.

Violations are discussed.

NPZA is discussed.

Westerman makes a motion to adjourn. Amen seconds the motion.

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

8:10 p.m. Meeting adjourned.

HAUL ROAD AGREEMENT

Exhibit A

This agreement is made and entered into this _____ day of _____, 202____
between Roger and Jean Ellenberger and _____.

The optional haul route for empty trucks may be as follows: from the intersection of Nebraska Hiway 275 and 37th Street, Norfolk Nebraska; North 2 miles on 37th Street to Eisenhower Avenue. Then West to the excavation site, located at SW1/4 of Section 12, Township 24 North, Range 2 West of the 6th P.M.

No off-road trucks will be used on the haul route. Overloaded trucks shall not be allowed. All speeds shall comply with legal limits as posted.

Loaded trucks shall use the following route Eisenhower Avenue West to intersection of 61st Street; continuing West on 844 Rd. for 2 miles. Then proceeding South 2 miles on 549 Rd. to Nebraska Hiway 275.

Any damage to county roads or bridges within the designated routs shall be the responsibility of the contractor/purchaser.

_____ Roger L. Ellenberger

_____ Jean J. Ellenberger

_____ contractor/purchaser

8-118-201

Madison County Planning Committee/County Commissioner's

I am strongly opposed to truck traffic on N.61st Street as a result of a dirt mine on the Roger Ellenberger property.

Safety, road damage, and noise are a major concern.

Print Name	Signature	Address
Brent & April Wisniewski		273 N 61st Street
Joe & Crystal Beckenham		215 N 61st Street
Kevin & Lisa Kowalski		201 N 61st Street

Exhibit B

Exhibit C

19 August 2021

Heather McWhorter, Administrator and members of the Madison County Joint Planning Commission,

I live at 1614 N. 61st St., Norfolk, NE 68701. Our neighbors to the North are Jean and Roger Ellenberger. I am writing re: the application to allow commercial dirt removal from their property at 2710 North 61st St., Norfolk, NE 68701.

Some dirt has already been removed and I wondered if that was to better prepare Eisenhower for the winter and snow challenges. That was maybe the County work. I have no objection to Jean and Roger Ellenberger removing dirt but wonder if that means a special use permit since the land is zoned agriculture.

My main concern is what is the truck route to get the dirt to its destination/s? I do not know what the route was for the earlier dirt removal this year but I do not think it was 61st St.

I would hope that any trucks taking the dirt from the Ellenberger site would not use 61st St. This is a well-travelled road by those who live on it and near it as well as many 40 County cars use it. Today there were several 36 County. Area residents run, walk and bicycle on 61st St. for exercise. It is hilly with no shoulder, farm vehicles use this road throughout the year as well. And it has not been a priority road for snow removal in most years except when the AT&T tower was built and they had employees in the building. Not only would increased truck traffic potentially cause damage to 61st St., depending on weather, in winter as an example, if snow had not been removed it would not be open for any traffic let alone be safe to drive on it.

If 61st St. is used I would ask that repair and maintenance of the road be in the budget each year. It has been said that other routes could not be used due to people living on those routes. If 61st St. is being considered because 'no people live on that road' I would suggest you take a drive and see for yourself.

Thank you for working this out in a way that benefits all. I will say again I would hope that 61st St. would not be the road used to deliver the dirt to its destination/s.

Beverly G. Henkel

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