

Planning & Zoning Meeting Minutes  
12/17/2021  
Butler County Courthouse

**Present**

Planning and Zoning Commission members:

Deb McWhirter  
Jane Close  
Roger Kregel  
Rosemary Willson  
John Backer

Others:

Misty Day, Zoning Administrator  
Jean Jones  
Clayton McDivitt  
Dale Neiman  
Eric Simon  
Gaylen Mulder  
Steve Lodge

Deb McWhirter called the meeting to order.

A motion was made to approve the agenda as presented by John Backer and was seconded by Rosemary Willson. Motion passed.

A motion was made to approve the previous meeting minutes dated November 18, 2021, by Roger Kregel and was seconded by Jane Close. Motion passed.

**Old Business:**

None.

**Public Hearing:**

Chair McWhirter opened the public hearing on Knock Minor Plat located at 21517 Newell Ave in the NE¼ SE¼ of Section 31, Township 92N, Range 16W. Administrator Day stated that this was currently a 35-acre parcel and the owner is wanting to split the acreage from the farm ground in order to clean up lot lines and sell the farm ground. Due to the hog confinement lot that was previously split off, this split triggered the minor subdivision requirements but there is no intention of developing the farm ground, it will remain in production.

A Motion to approve Knock Minor Plat was made by Jane Close and was seconded John Backer. Motion passed.

Chair McWhirter opened the public hearing on Longhorn Acres Final Plat in the NWfr¼ of Section 7, Township 90 N, Range 15 W. Administrator Day stated that the preliminary plat was approved in June and that all errors on the preliminary plat were corrected on the final plat, otherwise there were no significant changes. Board Member Close inquired as to whether these lots were already listed for sale and it was determined that the developer had not yet listed these lots with a realtor. Administrator

Day stated that a neighbor had stopped in the previous day for the original meeting date but that he did not express any comments in regards to the Subdivision.

A Motion to approve Longhorn Acres Final Plat was made by Jane Close and was seconded by John Backer. Motion passed.

Chair McWhirter opened the public hearing on an application by Clayton McDivitt to rezone approximately 2 acres from A-1 Agriculture to M Manufacturing. Clayton McDivitt was present on behalf of his application and stated that he was in the process of cleaning up the junk vehicles on his property and realized that there were a lot of people, specifically local youth, who would be impacted as he uses the vehicles for demolition derby projects for the County fairs and also teaches the kids about maintenance and gives them a place to work on their derby cars. Board Member Close inquired as to how many vehicles he takes to the fair and it was determined that he takes approximately 50-70 vehicles each year. Board Member Willson inquired as to how many vehicles were there now and Clayton thought around 100 but an adjoining property owner counted 136 vehicles. Administrator Day stated that she had received numerous complaints from an adjoining property owner which resulted in 2 notices of violation being sent because the numerous vehicles met the criteria of a junk yard. Clayton had attempted to start removing the vehicles but after a follow up conversation, it was apparent that Clayton did not want to part with the vehicles so Administrator Day informed him of his options including the possibility of rezoning a portion of the property to M Manufacturing to accommodate a "junk yard". Administrator Day pointed out the area to be rezoned does include a portion that is within the 100-year floodplain but that area was only included due the minimum lot size requirements of 2 acres for an "M" zoned property. There are currently no vehicles stored in the floodplain nor will that be allowed at any time in the future. Administrator Day also stated that she visited with Sheriff Johnson regarding Clayton impounding vehicles for the Sheriff's office and presented an email from the Sheriff.

Discussion was had regarding the salvage of vehicles and Clayton advised that his family actually has a salvage business in Grundy County and that all vehicles, whether impounded for the Sheriff's office or otherwise, are taken to the salvage yard if they are worth salvaging. Those that are not are brought to Clayton's property and used for his demolition projects. The vehicles stored at his property are not being salvaged at that location and it is merely a hobby and not part of his business. Clayton discussed what properly salvaging a vehicle looks like and that he is I Care certified and held to a high standard and is very dedicated to taking care of any environmental hazards associated with salvage vehicles.

Administrator Day read an email for adjoining property owner Mike Peterson in regards to his concerns about environmental hazards associated with numerous junk vehicles including the distance from his private well, CRP ground and waterway and the leaching of harmful chemicals into the ground from leaky vehicles. He was also concerned about increased vermin, noise pollution, property value deterioration and visual nuisance. Dale Nieman was present and expressed concerns about the vehicles being stored over Clayton's property line on what is technically Dale's property, otherwise, he did not have any concerns but also stated that he only farms the ground and does not actually reside there. Jean Jones was also present and spoke about the environmental concerns that she shared with her brother, Mike. Gaylen Mulder was present and expressed concerns about setting a precedence by rezoning this property. Eric Simon was present in support of Clayton's application and stated that Clayton has always been a courteous neighbor.

Administrator Day stated that she was in contact with the DNR regarding DNR permits and requirements and if Clayton were to have 250 vehicles, he would be required to sample stormwater runoff, and if he is doing any salvage or sale of parts, he would be required to obtain an NPDES permit. There were really no setbacks or other requirements. Administrator Day also reiterated that if

approved, Clayton would also need to go before the Board of Adjustment to obtain a special exception permit and that the Board of Adjustment had the ability to impose requirements such as fencing, etc. Administrator Day also addressed the rezoning concern raised by Gaylen and agreed that it would set a precedent and open up the property to other manufacturing related activities, which would also require Board of Adjustment approval. Administrator Day pointed out that this property was not clearly visible from the road, but it was along a paved highway that had several commercial and industrial zoned properties along it, including the Sinclair Elevator that was only a ½ mile away. Administrator Day briefly spoke about the Dumont junkyard and the approval process to rezone as well as junk vehicle complaint that was ultimately denied after they attempted to rezone.

Discussion was had between the applicant and neighbors about their concerns and what can be done to make the situation better. Discussion was had concerning tabling the meeting to give Clayton time to follow through with his word in getting the vehicles moved to his property and reducing the vehicles down to what he actually needs. Board Member Kregel asked Clayton what would be a good timeline to table the meeting to and Clayton thought he would be able to have it accomplished by the January 20<sup>th</sup> meeting.

Motion was made to table the hearing until January 20<sup>th</sup>, 2022, by Jane Close and was seconded by John Backer. Motion passed.

#### **New Business:**

Administrator Day updated the Commission on the ordinance update and stated that she had finalized all of her comments and sent those on to INRCOG. Upon checking with them prior to this meeting, it was determined that they were still reviewing but that they would be ready to attend the January 20<sup>th</sup> meeting to discuss the update with the Commission.

A motion to adjourn was made by Jane Close and was seconded by John Backer. Motion passed.

Misty Day, Planning and Zoning Administrator

