



## **Cherry County Planning Commission Minutes**

**June 3, 2025**

### **Cherry County Courthouse Meeting Room**

The meeting was called to order at 2:04 PM CT by Vice-Chairman Duane Kime in the advertised location of the Cherry County Courthouse Meeting Room.

Roll call was taken. The following members were present: Bill Wachob, Duane Kime, Gary MacLeod, Gordon Witte, Marla Shelbourn, and Sherri Bacon. Absent were Chad Tetherow, Gary Swanson and Wade Andrews. Also present were Jane Stolzenburg, Zoning Administrator, and various members of the public.

#### **Approval of Agenda**

Marla S. made a motion to approve the June 3, 2025 agenda. Sherri B. seconded the motion. Roll call vote was taken. Gary S.-Absent, Chad T.-Absent, Gary M.-Yes, Sherri B.-Yes, Marla S.-Yes, Bill W.-Yes, Gordon W.-Yes, Wade A.-Absent, Duane K.-Yes. Motion carried 6-0.

The Open Meetings Act was noted as was the public notice posted pertaining to this meeting.

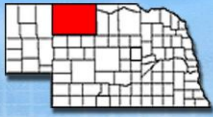
#### **Approval of Minutes**

Marla S. made a motion to amend the minutes to read "adopt the procedure." Gordon W. seconded the motion. Roll call vote was taken. Wade A. – Absent, Bill W.- Yes, Gary M.-Yes, Duane K.-Yes, Sherri B.-No, Marla S.-Yes, Gary S.-Absent, Gordon W.-Yes, Chad T. – Absent. Motion carried 5-1.

Marla S. made a motion to approve the April 1, 2025 minutes as amended. Gordon W. seconded the motion. Roll call vote was taken. Marla S.-Yes, Gary S.-Absent, Gordon W.-Yes, Chad T.-Absent, Wade A.-Absent, Bill W.-Yes, Gary M.-Yes, Duane K.-Yes, Sherri B.-No. Motion carried 5-1.

#### **Old Business:**

Niobrara Council Zoning permit process was discussed. Two options were presented to the Niobrara Council. Option 1 being the current procedure in the zoning regulations which would present any Conditional Use Permits (CUP) to the Council prior to the Planning Commission and Option 2 being the procedure that presents the CUP to the Planning



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Commission for review first. This is the procedure used for the last few years. The Niobrara Council voted to use Option 2. (see attached)

Marla S. moved to strike 502.07-2 and replace with Option 2 #2 as presented to the Niobrara Council and the Planning Commission. Gary M. seconded the motion. Roll call vote. Bill W.-Yes, Chad T.-Absent, Duane K.-Yes, Gary M.-Yes, Gary S.-Absent, Gordon W.-Yes, Marla S.-Yes, Sherri B.-Yes, Wade A.-Absent. Motion Carried 6-0.

A zoning sign index was discussed, it was the consensus of the Planning Commission to keep the signs in each chapter and to keep the Scenic River Corridor and Ag District the same.

Sherri B. made a motion to strike the words “eight square feet each if located outside the NRCAG District” from chapters 502.07, #5 letter I and 502.07 #6 letter I. Gordon W. seconded the motion. Roll call vote. Sherri B.-Yes, Duane K.-Yes, Gary M.-Yes, Bill W.-Yes, Wade A.-Absent, Chad T.-Absent, Gordon W.-Yes, Gary S.-Absent, Marla S.-Yes. Motion carried 6-0.

## New Business:

Marla S. made a motion to replace 801.03 in the proposed zoning regulations with the current section 608. Duane K. seconded the motion. Roll call vote. Chad T.-Absent, Gordon W.-Yes, Gary S.-Absent, Marla S.-Yes, Sherri B.-Yes, Duane K.- Yes, Gary M.-Yes, Bill W.-Yes, Wade A.-Absent.

Marla S. made a motion to leave 801.04 of proposed regulations and leave in Section 802, 802.01 intent and 802.02 definitions of the proposed with the addition of the selected definitions from existing regulations a discussed. Gordon W. seconded the motion. Roll call vote. Sherri B.-Yes, Duane K.-Yes, Gary M.-Yes, Marla S.-Yes, Bill W.-Yes, Gordon W.-Yes, Wade A.-Absent, Chad T.-Absent, Gary S.-Absent. Motion carried 6-0.

The following definitions from the current regulations in section 612.02 will need to be added. Antenna, Antenna Support Structure, Applicant, Application, Engineer, Person, Satellite Dish Antenna, Tower Development Permit.

Marla S. made a motion to leave 802.03 in the proposed regulations with the following changes: Insert #2 from 612.03 of existing regulations, #2 in proposed will become #3, #3 in proposed will become #4. 802.04 in proposed will remain the same with the addition of letter I, insert 612.04 #5 from existing regulations. Gary M. seconded the motion. Roll call



vote. Gordon W.-Yes, Bill W.-Yes, Marla S.-Yes, Gary M.-Yes, Duane K.-Yes, Sherri B.-Yes, Wade A.-Absent, Chad T.-Absent, Gary S.-Absent. Motion carried 6-0.

Sherri B. made a motion to accept 802.05 as proposed. Marla S. seconded the motion. Sherri B withdrew the motion for review.

Sherri B. made a motion to accept 802.05, 802.06 and 802.07 as proposed. Marla seconded the motion. Roll call vote. Gary M.-Yes, Marla S.-Yes, Bill W.-Yes, Gordon W.-Yes, Sherri B.-Yes, Duane K.-Yes, Chad T.-Absent, Gary S.-Absent, Wade A.-Absent. Motion carried 6-0.

Sherri B. moved 802.08, 802.09, 802.10, 802.11, 802.12, 802.13, 802.14 and 802.15 to accept with the exception that 802.08 the last sentence amended to remove "or the cost of such features represents an undue burden on the applicant." Gordon W. seconded the motion. Roll call vote. Bill W.-Yes, Gordon W.-Yes, Marla S.-Yes, Sherri B.-Yes, Duane K.-Yes, Gary M.-Yes, Wade A.-Absent, Chad T.-Absent, Gary S.-Absent.

Sections 8.03 through 8.06 in proposed regulations will be reviewed at the next meeting.

The board set July 9, 2025 at 2:00 PM CT for the next regular meeting.

Public Comment:

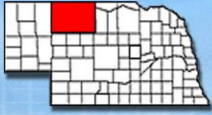
No members of the public spoke at this time.

Communications:

Zoning Administrator Jane S. reported an attorney had sent an email regarding the Cattle Country Easement and how it takes away the right of the landowner to object if a conditional use permit is issued. He stated that we may want to review the easement language to include whatever the adjacent land is being used for at the time of the easement. It was suggested to send the information to the County Attorney for review.

Zoning Administrator Jane S. had spoken to Keith Marvin on April 22, and he said he would work on the changes submitted. No changes have been received as of this date for those changes.

Sherri B. reported she received an email from Senator Hardin regarding cannabis. We will have to prepare to address this issue on whether to allow it, but no one can force us violate Federal Laws.



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## Reports and Recommendations:

Zoning Administrator Jane S. reported there have been two permits issued for upgrades to cell towers, two permits issued for new homes and one permit for an addition of living quarters in a barn.

## Excused Absence:

Gordon W. made a motion to excuse Gary S., Chad T., and Wade A. from the meeting. Marla S. seconded the motion. Roll call vote was taken. Chad T.-Absent, Sherri B.-Yes, Gary S.-Absent, Bill W.-Yes, Wade A.-Absent, Duane K.-Yes, Marla S.-Yes, Gordon W.-Yes, Gary M.-Yes,. Motion carried 6-0.

Vice-Chairman Kime adjourned the meeting at 4:53 PM CT.

Jane Stolzenburg

Zoning Administrator

OPTION 2: CONDITIONAL USE APPLICATION PROCESS WITHIN THE NRCAG DISTRICT WITH PLANNING COMMISSION ACTING ON THE CUP APPLICATION AND THEN REFERRING TO THE NIOBRARA COUNCIL

502.07 PERFORMANCE STANDARDS AND DEVELOPMENT REQUIREMENTS FOR THE NRCAG DISTRICT:

The owners of real property within the Niobrara Scenic River Corridor have a right to enjoy the scenic quality and view of the river, the river valley and related scenic vistas whether along the river or roadways in the corridor. In order to protect these rights and to preserve the scenic quality of the river, in a manner consistent with the National Park Service Niobrara National Scenic River Final General Management Plan/Environmental Impact Statement (GMP), development of buildings and structures associated with uses authorized in this district, when developed within sight from any location within the corridor, shall comply with the following standards and limitations:

1. All buildings, structures and uses which require a zoning permit shall be subject to such permit application or certificate request being forwarded to the Niobrara Council for review and comment with regard to compliance of the proposed development with the GMP. The Zoning Administrator shall not issue any zoning permit in this District until a response from the Niobrara Council has been received, provided such response is received within 90 days from the date the Zoning Administrator sends the application for a zoning permit to the Niobrara Council. If no response is received from the Niobrara Council within such time period, the application shall be deemed to be consistent with the GMP. In the event the Niobrara Council shall determine that the proposed development is not consistent with the GMP it shall recommend modifications in the proposed development which would allow the development to become consistent with the GMP. Upon receipt of such findings and recommendations, the Zoning Administrator shall notify the applicant of such inconsistency and recommendations and request modifications in the application so that the development becomes consistent with the GMP. Upon receipt of a revised application which is consistent with the recommendations of the Niobrara Council, such permit or certificate may then be issued.
2. Application for authorization of any use listed as a conditional use within the Niobrara River Corridor Ag District shall be referred to the Niobrara Council for review and comment. The findings and recommendations of the Niobrara Council shall be forwarded to the Zoning Administrator and Board of Commissioners so that such findings and recommendations may be considered during the conditional use review process set forth in this resolution.

This process will be:

- A. The Conditional Use Application is completed by applicant and submitted to the Zoning Administrator for their review.

B. The Zoning Administrator confirms the application is complete and refers the conditional use application to the Cherry County Planning Commission in accordance with Article 5: Conditional Uses and also sends a preliminary copy of the conditional use application to the Niobrara Council.

C. Once the Planning Commission acts on the conditional use permit, the Zoning Administrator forwards the application to the Niobrara Council for their review and comment with regard to compliance with the GMP. The Zoning Administrator shall not present the Conditional Use Permit to the Board of Commissioners until a response from the Niobrara Council has been received, provided such response is received within 90 days from the date the Zoning Administrator sends the application for a conditional use permit to the Niobrara Council.

i. If no response is received from the Niobrara Council within such time period, the application shall be deemed to be consistent with the GMP.

ii. In the event the Niobrara Council shall determine that the proposed development is not consistent with the GMP it shall recommend modifications in the proposed development which would allow the development to become consistent with the GMP.

iii. Upon receipt of such findings and recommendations, the Zoning Administrator shall notify the applicant of such inconsistency and recommendations and request modifications in the application so that the development becomes consistent with the GMP.

D. Upon receipt of an application which is consistent with the recommendations of the Niobrara Council, such application will be forwarded by the Zoning Administrator to the Board of Commissioners so that such findings and recommendations may be considered during the conditional use review process set forth in this Resolution.

3. Application for a variance from the requirements of this Resolution shall be referred to the Niobrara Council for review and comment in the same manner and for the same purpose as in Paragraph 1 above, provided that the findings and recommendations of the Niobrara Council shall be forwarded to the Board of Adjustment so that such findings and recommendations may be considered during the deliberations of the Board of Adjustment on a variance application.

4. In instances where land is included within the NRCAG zoning district, but such land lies outside of the designated Niobrara River Corridor as established in the GMP, the Niobrara Council shall not have review authority and only the requirements of this Resolution shall govern.