

Jefferson County Planning & Zoning

Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of Planning Commission Meeting of June 23, 2014

Item 1. Call to Order.

Item 2. Approval of the Agenda

VICE-CHAIR JOHNSON MOVES TO APPROVE THE AGENDA. COMMISSIONER CURRY SECONDED THE MOTION.

Votes were taken by Ayes and Nays and recorded as follows:

Matt Scherer	Paul Johnson	Roger Wood	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry
DNV	Aye	Absent	Aye	Aye	Aye	Aye

The motion carried unanimously, 5-0.

Item 3. Roll Call

Matt Scherer	Paul Johnson	Roger Wood	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry
Present	Present	Absent	Present	Present	Present	Present

Staff Members Sam Henderson, Zoning Administrator; Erin George, Planner I, were also present.

Item 4. Approval of the May 27, 2014 minutes.

Chair Scherer asked if there were any corrections or additions to the minutes. Comments were addressed. Chair Scherer asked for a motion to approve the minutes.

Action: *COMMISSIONER FRAKES MOVES TO APPROVE THE MAY 27, 2014 MINUTES WITH CORRECTIONS, SECONDED BY COMMISSIONER NOLL.* Votes were taken by Ayes and Nays as follows:

Matt Scherer	Paul Johnson	Roger Wood	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry
DNV	Aye	Absent	Aye	Aye	Aye	Aye

The motion carried unanimously, 5-0.

Item 5. CHAIRMAN SCHERER OPENED THE PUBLIC HEARING

Z2014-03 by Jacob Jaap To consider rezoning Lots 1 through 10, 12 through 35 of the Simedo Village Subdivision from "SR" Suburban Residential District to "RR" Rural Residential and vacate all roads lying North and South of Simedo Drive and any and all utility easements within said lots and along said roads.

Mr. Henderson presented the staff report for Z2014-03.

Vice-Chair Johnson: So, I want to go to the letter we have in our packet from John Heston. It says the north 30+ acre tract that would consist of lots 1-9 and lot 12 depending on where a house would be located on this tract test holes could be dug to determine how severe the rock is in the area. An alternative system could also be placed in the area where the rock is too severe for a conventional system. Just for my own understanding, what would be an alternative system to make that work?

Mr. Henderson: I'm not sure exactly what John is referring to but there are alternative systems such as lagoon systems or systems that would be considered more of what they call an on-site sewer system which would be kind of a holding tank that acts as a larger sewer treatment plant but in kind of a one-house system and it would release effluent into the ground through something like a drip irrigation system or a smaller lateral field that wouldn't take up as much space. (To the applicant) I don't know if John's talked to you about this?

Applicant: Yes, he has. He stated that they could come in and put in a raised septic system, pretty much what you're describing and if the rock was too severe that we'd be able to do an above ground septic system. Now days it's starting to become more popular due to housing being built in extreme situations. It wouldn't be a problem, but the price might be higher.

Chairman Scherer: Mr. Jaap, would you like to say anything in regard to the application.

Applicant: I do not believe so. We're excited.

Chairman Scherer: Are there any questions for Mr. Jaap at this time?

END OF APPLICANT PRESENTATION

OPEN OF PUBIC COMMENT

Chair Scherer asked if there was anyone who would like to speak in favor of the application.

Garret Tufte: It looks fine to me. I'm a land surveyor and we do a lot of subdivisions and those things. I'm here for another application. For what it's worth, it seems like a good thing to do. Having a bunch of extraneous unnecessary lots zoned Suburban Residential perhaps one day in the past it was supposed to become something like Lakeside Village or Lakewood Hills or something that didn't actually happen it seems quite unnecessary to me.

Chair Scherer asked if there was anyone who would like to speak in opposition to the application. *No comment was given.*

END OF PUBLIC COMMENT

Commissioner Bailey: I have one question, it appears that the road is not inside the yellow line and I'm just hoping that's how you marked it.

Mr. Henderson: The aerial pictures are not survey accurate as to where the lot lines are placed on the aerial, but this section here that is highlighted in yellow is actually a panhandle that is not in the road right-of-way. The road right-of-way is actually to the south of the panhandle.

Commissioner Bailey: So the road right-of-way does not sit in this property?

Mr. Henderson: Right, until it gets to right here. Like I said the lines could be off, I'll switch to the ArcMap.

General Discussion of the location of the right-of-ways ensues. The applicant offered a copy of the original plat to discuss.

Vice-Chair Johnson: Is tract 2 occupied at this point?

Mr. Henderson: Yes, there is a house there and I believe that is where Mr. Jaap is living right now.

Vice-Chair Johnson: This driveway off Slough Creek will be a shared responsibility for these 4 lots?

Mr. Henderson: It would be privately maintained and so those lots would need to, whoever lives on them if they each have houses on them eventually, the 4 lots would need to come up with a way to maintain that property (road) similar to an HOA.

Chairman Scherer: It's (an HOA) not required. I live on a road that we keep together. Every once in a while we get together and apply rock.

Mr. Henderson: Some way, whether that is a formal or informal agreement, they would be responsible for maintaining that road. I'm not sure if it was an agreement that they signed with the County or not. I'm just aware that in the minutes and notes for the previous request to vacate the utility easements that was discussed that it was a privately maintained road, Simedo Road.

Vice-Chair Johnson: So in the report that we have here the assumption is that two of these lots may go to family members and that the other lot would be available for somebody else to buy?

Applicant: Well, no sir. I have 3 kids and I want to make sure it stays in the family. I grew up right across the street on Slough Creek Road and just want to connect all that and keep it in the family is the game plan.

Vice-Chair Johnson: And I think that is wonderful, and if economic circumstances don't change or life plans don't change or people don't move to other things what we're setting up here doesn't tie it to potential purchases by family members. That is what we're trying to understand is what future potential could be given the best intentions that people have about what people want to do with their land.

Applicant: Yes, sir. And I could not tell you that it might not be sold down the road by kids. I have no intention of getting rid of it. It's just a dream you know. I'm not planning on selling it.

Vice-Chair Johnson: I guess my final question would be; this private road would be up to the people that would buy this land. So, the County won't be on the hook for dealing with these driveways and it will be up to whatever association agreement or whatever is dealt with between the owners of these lots?

Mr. Henderson: Yes, that is my understanding of what the previous discussions have been.

Commissioner Curry: We're not really changing it from how it was before, we're just changing the zoning of the land?

Commissioner Frakes: Changing it from Suburban to bigger lots.

Mr. Henderson: Yeah, changing it to bigger lots so instead of having 35 lots there you'll have 4.

Commissioner Curry: That would probably make it easier to maintain the road.

Commissioner Bailey: Now it would be required to be asphalt, if it were 35 lots.

Chairman Scherer: Are there other questions or comments?

ACTION: COMMISSIONER BAILEY MAKES A MOTION TO RECOMMEND APPROVAL OF Z2014-03 INCLUDING THE REQUEST TO VACATE PUBLIC RIGHT-OF-WAYS NORTH AND SOUTH OF SIMEDO ROAD AS PRESENTED AND RECOMMENDED BY STAFF. COMMISSIONER CURRY SECONDED THE MOTION.

Matt Scherer	Paul Johnson	Roger Wood	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry
DNV	Aye	Absent	Aye	Aye	Aye	Aye

The motion carried unanimously, 5-0.

Staff informed the applicant when the case would be submitted to the County Commission for final approval and let them know they would receive notice prior to the meeting.

PR2014-07 and Z2014-08 by Margaret DeMarce and Shannon Buerger: To consider a final plat of the Camas Grove Subdivision No. 2, and to consider rezoning Lots 2, 3, and 4 of the Camas Grove Subdivision No. 2, generally located on the Southwest corner of Stairstep Rd and Union Rd, from "AG" Agricultural to "RR" Rural Residential and "SR" Suburban Residential Districts.

Mr. Henderson presented the staff report for PR2014-07 and Z2014-08.

Vice-Chair Johnson: Were there any communications from neighbors or surrounding property owners?

Mr. Henderson: We did not receive any communications whether informational or otherwise.

Commissioner Bailey: What is the road frontage for lot 3?

Mr. Henderson: Approximately 366 (ft) total. That 132 (ft) was previously a part of that lot one, but they changed that from being longer to being shorter and wider. The minimum required is 330 (ft). For the Suburban Residential lots it's (the requirement) 165 (ft). So, they all exceed the frontage requirements.

Vice-Chair Johnson: Where would (the entrance to) lot 4 (be) then, it would come off what now?

Mr. Henderson: They have an access easement where Union would continue, if it would continue south instead of turning into Stairstep there. They have a preexisting access there with this lot to the west of them. There is a driveway entrance that goes down to where the house is, on their property. They actually access here at the northeast corner currently. There's a picture of that in the Staff Report.

Mr. Henderson reviewed the pictures of the entry attached to the Staff Report included in the Commission Packets.

Commissioner Frakes: Does the easement still exist, or was it totally vacated? I mean the County's easement. Did they vacate all of Union Road South or is it still County property?

Applicant Representative Garrett Tufte: I don't know if Union extended down there originally. I'm not sure, the easement as it is is still the exact same.

Mr. Henderson: We would need to talk with Bill about the road.

Commissioner Frakes: As long as they've got an easement, that's all that matters.

Chairman Scherer: Does the Applicant's representative wish to speak?

APPLICANT PRESENTATION

Applicant's Representative: I'm Garrett Tufte, their land surveyor. They couldn't be here today. They pretty much want to do this because Sean wanted basically all of lot 3 and lot 2, kind of the whole "flag" area before Sam gave the suggestion to cut that into two lots and so if you see down here there's a small barn as well. If you go out there you get this amazing view of the whole valley straight to the south. Lot 1 as well, if you notice the distance between the east line and the house itself, on the previous Camas Grove Subdivision No. 1 the line almost goes into the house itself and doesn't actually fulfill the building setback. So, the widening of that particular lot actually more follows the guidelines for setback lines.

END OF APPLICANT PRESENTATION

OPEN PUBLIC COMMENT

Chair Scherer asked if there was anyone who would like to speak in favor of the application. No comment was given.

Chair Scherer asked if there was anyone who would like to speak in opposition to the application. No comment was given.

END OF PUBLIC COMMENT

ACTION: COMMISSIONER FRAKES MOVES TO RECOMMEND APPROVAL OF PR2014-07 AND Z2014-08 AS RECOMMENDED BY STAFF. COMMISSIONER NOLL SECONDS THE MOTION. Votes were taken by Ayes and Nays and recorded as follows:

Matt Scherer	Paul Johnson	Roger Wood	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry
DNV	Aye	Absent	Aye	Aye	Aye	Aye

Motion carried unanimously 5-0.

Staff informed the applicant's representative when the case would be submitted to the County Commission for final approval and let them know they would receive notice prior to the meeting.

TA2014-02 by Jefferson County Board of County Commissioners to consider an amendment to the text of the Jefferson County Zoning Regulations establishing a hierarchy of Zoning Districts at the request of the Jefferson County Board of County Commissioners.

Mr. Henderson presented the staff report for TA2014-02.

Commissioner Bailey: Has this been taken through legal counsel?

Mr. Henderson: I have not asked Josh about the wording yet.

Commissioner Curry: It says that overlay and special purpose districts are not included and I see that there is an airport overlay district.

Mr. Henderson: Right, those districts, although they are enumerated above, aren't included in the hierarchy because the airport overlay district could go over any district or the floodplain district isn't a predetermined area, it goes across all zoning. So those aren't included in the hierarchy. The hierarchy is only for those districts that are not overlay. For example Rural Residential is only Rural Residential unless it's also overlaid by the airport district where they might be further limited in height than Rural Residential Districts allow or it might also be in a flood hazard zone which would prevent them from say, having a basement in their home or something like that. But a flood hazard area could be in a commercial zone, it could be in a residential zone, it could be in an industrial or Ag zone. In addition to the established zoning districts.

Vice-Chair Johnson: Excuse me if I don't understand all the legalese of exactly what this does, but let's take the case that prompted this. The insurance agent that was advised to go with CP-3 and we had to re-advertise it for CP-1. With how this hierarchy was set up now if he had come in and applied for just a CP-1 could that be elevated to a CP-3?

Mr. Henderson: No.

Vice-Chair Johnson: Is this only one directional?

Mr. Henderson: Yes, to the less intensive or more restrictive (district). Less intensive is synonymous with more restrictive they mean the same thing basically. So what you would be able to do in a future case if someone was requesting CP-2 or CP-3 you could look at the request and based on the evidence provided and you can say what you can do you can do in a CP-1 District which is more suitable to the surrounding neighborhood than a CP-3 District would be which you can also do what you want to do in a CP-3 District but you can also do a lot of other stuff in a CP-3 District which may not be compatible with the surrounding uses. So, without having to re-advertise and meet again you can, the Planning Commission, can recommend to the Governing Body the less intensive use of CP-1 instead of having to have the applicant wait for 6 more weeks or 4 more weeks to go through the meeting again where you would all have to go through the issues again and that kind of just shortens the process.

Vice-Chair Johnson: So does this lock in the likelihood that, "why not apply for the CP-3 and see what you get in terms of the classification"?

Mr. Henderson: I don't know that would increase that any at all. At least not while I'm here. I try to look at the request and see what they want to do and see what is the best fit, which should be the case with every Zoning Director or any member of Staff who has someone come in and ask questions about what they want to do.

Commissioner Frakes: This hierarchy, I asked about it when we redid our Zoning Regulations because it is very common in cities to have it. I mean we had it in Valley Falls when we redid our regulations. We had a hierarchy and it was on the map and it was in the Regulations and it made it a lot better because if someone came in and it didn't actually fit you could come down from what you published but not go up from what was published.

Commissioner Curry: You would never want to go up anyway because for notification purposes and planning purposes in general. I think it makes complete sense because I don't think it is going to change what people are going to ask for because if they want more they're going to ask for it anyway. If they think I'm going to run a business but maybe I'll have heavy trucks or heavy equipment they're going to ask for it in the beginning anyway. I just think that it will help us protect the County.

Commissioner Frakes: Exactly, and give us a little more lateral room. We don't put our constituents off by making them go home for 6 weeks and making them come back and take time off work. Try to make it more user friendly. That is what our goal should be. Protect the County and the citizens of the county but make it more user friendly when people need to use it.

Chairman Scherer: At this time I'm going to ask the Commissioner present if he has anything to say, he's the only member of the public present here.

Open Public Comment

No comments were made.

Close Public Comment

Vice-Chair Johnson: So this is normal protocol in most counties, is that right? Some Cities have done it like Valley Falls and other places.

Mr. Henderson: It's an option available, you don't have to do it, but it's available if you'd like to prepare for the eventuality of not having to put someone through an additional 4 or 6 week waiting period. In the zoning statutes it just says that the planning commission can't recommend a lesser change unless there is a hierarchical list and so if adopted it allows a little more flexibility as opposed to having to put them back through the whole process. If it's not adopted you can still change to a lesser classification it just increases that time where the case has to wait there.

Commissioner Frakes: I think it gives us and the Commissioners more freedom to regulate the County.

Commissioner Curry: I don't see the downside.

Chairman Scherer: The only downside I wonder about is if there is some unintended consequence of moving down that hierarchy.

Commissioner Frakes: If we recommend it to go down, he can always pull his application before it goes to the Commissioners.

Mr. Henderson: The only negative aspect might be, for example if someone requested CP-3 and you looked at it and recommended CP-1 but the neighbors still didn't want any commercial there at all, then they'd only have 14 days to get a protest petition to the County Clerk as per State Statute. Whereas, if it wasn't adopted and you made that decision to postpone for 6 weeks to the next planning commission they'd have that time to maybe get in touch with their County Commissioners.

Chairman Scherer: But they'd already been notified that there was a CP-3 application.

Commissioner Frakes: So they'd already know and if there was a big uproar then they'd already know and if we recommended a CP-1 then those people would band together and go see the County Commissioners at that meeting and more than likely knowing the governing bodies that I've worked with they'd probably postpone for 2 to 4 weeks to review and get comment and allow them time to do the petition if they needed it. I don't honestly see a...

Chairman Scherer: The only downside I see is more verbiage that we aren't going to use very often.

Vice-Chair Johnson: Obviously with our adoption where our comprehensive plan is now, we've already earmarked where the commercial districts and industrial districts are at. Given that we've moved from conditional use permits on all of this to establishing that then neighbors need to understand that in some ways that's already locked in.

Commissioner Frakes: Well, it's a guideline. You can't say it's locked in.

Mr. Henderson: It's a possibility to be considered.

Commissioner Frakes: It's a tool to use to try...

Vice-Chair Johnson: But it's a preponderance of evidence is such that then you have to rebut that in some fashion.

Mr. Henderson: What that overlay states is that commercial or industrial can be considered for this location, whereas, if it's not in this location then it shouldn't be considered at all other than on a conditional use basis. So what that overlay does is it doesn't necessarily guarantee that it's a lock it just says that it can be considered for this location. You still need to weigh...

Vice-Chair Johnson: Traffic.

Commissioner Frakes: Water, wastewater, KDOT, maybe the electric company can't get what they want or need. There's still a lot to address.

Commissioner Curry: And honestly, even if we adopt this right now and we decide later on we have somebody that comes in and says I want a CP-3 we don't have to say CP-1 then we can say come back in 4 weeks. I think it just helps us.

Mr. Henderson: If it's clear that you don't think you need another 4-6 weeks to think about it you have that option to just recommend the lesser change as opposed to definitely having to take that extra time.

Commissioner Frakes: When we get verbiage, I am 100% in favor of this.

Action: COMMISSIONER FRAKES MOVES TO POSTPONE CONSIDERATION OF TA2014-02 UNTIL AFTER STAFF CAN CONSULT THE COUNTY COUSELOR ABOUT THE LANGUAGE USED IN THE AMENDMENT. COMMISSIONER BAILEY SECONDS THE MOTION. Votes were taken by ayes and nays and recorded as follows:

Matt Scherer	Paul Johnson	Roger Wood	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry
DNV	Aye	Absent	Aye	Aye	Aye	Aye

Motion carried unanimously by a vote of 5-0.

Item 6. Public Comment

No comment was given.

Item 7. Old Business and General Staff Report:

Old Business:

Vice-Chair Johnson asked about the relationship between development and property taxes. Mr. Henderson reviewed generally the requirement for a development agreement for new housing developments and payment for improvements to roads and other facilities and how property taxes are assessed. Vice-Chair Johnson brought up a study that was done in Nebraska about what the “break even” point for a home’s valuation needed to be to pay for public services provided.

Commissioner Bailey reviewed why he made motion to recommend against approval of PR2014-05 and Z2014-07 he felt that either the regulations needed to be changed or variances need to not be granted and asked for input from Commissioner Ledbetter, who was in attendance as a private citizen not representing the BOCC, explained the process of why the property with less than required frontage was granted an exception to “clean up” the lots and because the entrance had existed for many years in that state based on the recommendations of Staff at that time.

Vice-Chair Johnson followed up on TA2014-01 about the direct or indirect reference to State Statute or Regulation. The Commission previously recommended approval of the amendment contingent on staff clarifying with County Counsel about the references included to State Statute and Regulations. County Counsel was fine with either direct or indirect reference and the BOCC directed Staff to include direct reference to the Statutes.

The status of Roger Wood’s recovery was discussed.

No motions were made during or because of these discussions of old business.

General Staff Report: Staff updated the Commission on the status of cases from the previous month.

No other Old Business was presented.

Item 8. New Business

No New Business.

Item 9. Adjournment

Action: Commissioner Bailey made a motion to adjourn. Commissioner Frakes seconded the motion. Motion carried unanimously.

Minutes taken by:



Sam Henderson, Zoning Administrator

Approved:

July 28, 2014

Date

Chairman:



Matt Scherer

Secretary:



Alex Noll Secretary