

Jefferson County Planning & Zoning Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of Planning Commission Meeting of October 28, 2013

Present: Matt Scherer, Chair; Paul Johnson, Vice-Chair; Roger Wood, Secretary; Tim Bailey, and Kelli Curry Members; Bill Noll, Zoning Administrator; Erin George, Planner I.

Absent: Alex Noll Bret Frakes, Members

Item 1. Call to Order.

Action: Motion made by Commissioner Johnson to approve the agenda, seconded by Commissioner Wood. Motion to approve agenda carried unanimously.

Item 3. Approval of the September 23, 2013 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: Motion made by Commissioner Johnson to approve the September 23, 2013 minutes, seconded by Commissioner Wood.

Chair Scherer called for a vote on the motion to approve the minutes. The motion carried unanimously.

Item 4. Z2013/07 by Jeffery Schweda to change the District Zoning Classification from “RR” Rural Residential to “SR” Suburban Residential. This property is located in the Southwest Quarter of Section 34, Township 10 South, Range 18 East of the 6th P.M., Jefferson County, Kansas. Record Owners of the property: Jeffery L. and Lorna K. Schweda. The address of the parcel is 4896 Ferguson Road, Perry, KS 66073. The property is located in the northeast side of Ferguson Road and approximately ¼ mile northwest of Marion Road.

Final Plat Review of Schweda Hill Estates Subdivision. This property is located in the Southwest Quarter of Section 34, Township 10 South, Range 18 East of the 6th P.M., Jefferson County, Kansas. Record Owners of the property: Jeffery L. and Lorna K. Schweda. The address of the parcel is 4896 Ferguson Road, Perry, KS 66073. The property is located in the northeast side of Ferguson Road and approximately ¼ mile northwest of Marion Road.

Staff Presentation: Mr. Bill Noll, Zoning Administrator, presented item 4.

Mr. Noll stated that the current request has been submitted in order to rezone the property to “SR” and to have the Plat of the new division of the property approved.

Mr. Noll presented the staff report and a power point with maps showing the property’s location in relation to Ferguson Road and the City of Perry, surrounding zoning and land use, the notification area of the Rezoning Request, and site map. Mr. Noll stated that there were reviews completed for road access, sanitary, and water access and all were approved by the appropriate agency.

Staff recommends approval of Z2013/07 and the Final Plat of Schweda Hills Estates Subdivision.

Staff recommendation is based upon the following:

The property appears to be suitable for the proposed use and appears to be consistent with the character and condition of the surrounding neighborhood. The request appears to be consistent with the Comprehensive Plan and with the intent and purposes of the regulations. It appears to be compatible with other uses in the surrounding neighborhood and will not adversely affect other property in the area. The proposed use does not appear it will cause an undue burden on transportation facilities and will not be detrimental to the health, safety, morals, comfort or general welfare of the neighborhood.

The proposed properties meet all of the guidelines set forth by the subdivision regulations. This includes adequate space and conditions for wastewater removal, direct driveway access, water access, and proper road frontage requirements.

Commissioner Johnson asked about the sewer inspection. He asked on the second lot how much is available for a septic system. Mr. Noll stated that he did not know exactly where the system would be placed. He stated that he assumed that it would be on the flatter portion of the property. He stated that more than likely a future residence will need a pump to pump the sewage to the system.

Commissioner Johnson asked where exactly the future driveway was going to be placed. Mr. Noll stated that he did not know and he cited the letter from Mr. Hubbard that stated that there was only one acceptable location but did not state where it was. Mr. Noll told Commissioner Johnson that he thought that the applicant had met with Mr. Hubbard and they had marked out the location of the drive and that they were going to have a culvert installed pending approval of the subdivision.

END OF STAFF REPORT

Chair Scherer asked if the applicant was present to speak on their behalf. Mr. Black spoke on behalf of the applicants. He stated that they would like to split the property and take advantage of the second water meter on the property. Mrs. Black stated that they have two children and they would like to pass the property onto them in two pieces.

END OF APPLICANT PRESENTATION

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 Johnson made a motion to recommend approval of Z2013/07 and the Final Plat of Schweda Hill Estates Subdivision. Commissioner Bailey seconded the motion. Chair Scherer asked if there was any further discussion. Chair Scherer asked if they were basing their recommendation on Staff's recommendation. Commissioner Johnson answered yes.

Motion carried unanimously.

Item 5. Development Plan Revision DP2013/05 by Russell and Dina Brown for the proposed expansion of retail sales, permitted business area, outdoor equine events, additional signage, and camping on land described as: Part of the Southeast Quarter of Section 1, Township 11 South, Range 16 East of the 6th P.M., in Jefferson County, Kansas. The address of the parcel is 3256 39th Street, Topeka, KS 66617. The parcel is generally located on the north side of 39th Street approximately 3/4 mile east of K-4 Hwy.

The current request has been submitted to expand the scope of the business as highlighted in the applicant's statement of intent.

Mr. Noll presented the staff report and a power point with maps showing the property's location in relation to the 39th Street and K-4 Highway, surrounding zoning and land use, the notification area of the Rezoning Request, the current use of the property, and the proposed use of the property.

Mr. Noll stated that the applicant's have been having events at that business without proper permitting during the past several months. This is what they had been turned into for as a zoning violation. Mr. Noll stated that they have had approximately nine events. He showed the Planning

Commission members an example of the flyers from the events. Mr. Noll stated that when he contacted Mr. Brown, he came into the office and filled out the paperwork for the development plan revision. Mr. Noll stated that they did continue to have events after the application and prior to the meeting this evening.

Staff recommended approval of DP2013/05 with the following conditions:

- 1) Camping shall be limited to camping for events only. The site shall not be used as a year round commercial campsite.
- 2) Events shall be limited to equine/cattle and agricultural events only. No other events shall be allowed without a Special Event permit including but not limited to concerts.
- 3) Events hours shall be no later than 10:00 PM Sunday-Thursday and 12:00 AM Friday and Saturday and no Event shall start prior to 7:00 AM.
- 4) All arena lighting shall be directional lighting directed toward the arena. Parking lighting can be flood lights but must be covered by a filtered lens.
- 5) Safety signs for truck traffic must be installed by the county at the expense of the owner as stated in the traffic review by the Jefferson County Road Department.
- 6) A restroom facility with camper waste disposal hookups must be constructed with proper permitting for a wastewater system by the Jefferson County Health Department at the arena for the events before June 1, 2014. Portable restroom facilities shall not be used at the site after said date. In conjunction with the construction of this facility all other waste water systems on the property must be functioning properly by said date.

Staff recommendation is based upon the following:

Staff's recommendation is based upon the fact the business has operated at that location for the past 16 years with minimal complaints having been voiced. Staff understands and sympathizes with the owner of the property to west but believes that the overall impact on the community of the local township and the county as whole will be a positive one.

The business is a family orientated business that reaches out to many different non-profit organizations including 4-H, Christian Rodeo Groups, and volunteer firefighters.

Despite operating for the past few months outside of the scope of their permit, they have run a very clean and low impact business in Jefferson County. Their business generally does not produce excess noise, according to the road department, excess traffic that should harm the road, or pollution. If Jefferson County wishes to promote an environment where existing business are allowed to grow Staff believes that the best thing that we can do is to make sure the proper steps are being followed to try and minimize the impact of the business on its surrounding community. Staff recommendation and analysis of this application may not have been the same if there had not been an ever expanding retail business operating under an existing conditional use permit for the past 16 years.

Staff believes that the ideal scenario would include a large vegetation barrier between the business and arena area and the neighbor's property. However, that was not recommended as the vegetation barrier would need to be planted on the neighbor's property to be effective due to the

topography of the land in that area. If the R-Bar-B business planted the barrier on their property it would take decades for that to mature and be of usefulness.

END OF STAFF REPORT

Chair Scherer asked the applicant if he would like to speak on his application's behalf. Mr. Brown stated that he would like to address the operating of his business in a noncompliant fashion. He stated that they had built the arena for personal use and people just kept asking him to have trainings and small events. He stated that whether he had events there or not he was going to have an arena for his family and friends to use. He continued that his children ride and rodeo. He stated that some of the events were held in the front arena that was a part of his past conditional use permits. He stated that thus far he has not profited from any of the events. He stated that some were free and some had fees to cover the expenses of the trainer for the event.

He stated that dirt work for the pond, arena, and area around the business was going to happen whether or not he ever had any events there and that this was not intended to be an attempt to build something and then ask permission for it later after it was there to pressure anyone into approving the use.

He stated that he hoped that all of the interest he has received in the arena and what events he may have will help his retail business. He stated that he tried to plan farther ahead in the future with this application he would not need to come back to ask permission once again to expand his business in another 5-7 years.

Next Mr. Brown addressed the proposed lighting. He stated that at this time he did not plan on making the investment in lights but once again it is something that he may want to do in the future.

He stated that he knows that his application looks a little bit more grand than what will probably happen. He stated that what everyone needs to remember is that they are talking about having horses with riders riding on dirt. He stated that if you had driven into his business a year ago and then came back today you would think that the improvements that they have made a very esthetically pleasing.

Chair Scherer asked if he understood all of the recommended conditions of approval. Mr. Brown answered yes. He stated that he has never been a fan of time limits. He continued that if people are working and he has told them to quit at 10 and they stay out until 10:15 he did not want to be called out for that. He also stated that he did not believe that he should be limited when he and family and friends are out in the arena. Mr. Noll stated that that was not the intention of the recommendations. He continued that they were intended to be used for events.

END OF APPLICANT PRESENTATION

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

Stacy Adams, located at 5343 86th Street, Meriden, KS spoke in favor of the application. She stated that she was there to speak on behalf of the Jefferson County 4-H association and the Christian Youth Rodeo Association. She stated that she was a board member of the Christian Youth Rodeo Association and that she was a county representative for 4-H. She stated that she felt this was good opportunity for youth in Jefferson County. She stated that the arena will provide a safe and education setting for the children of the county to ride their horses.

Douglas Brumbaugh, located at 3056 Detlor Road, Grantville, KS spoke in favor of the application. Mr. Brumbaugh stated that his here this evening to represent the Township that he acts as the Treasurer of and the local volunteer firefighters which he is the Fire Chief of. He stated that they do not have very many businesses in Kaw Township and they could use good businesses. He stated that the south portion of the county could use more business and an increase in the tax base.

Dr. Jeffery Van Patten, located at 4861 Detlor Road, Meriden, KS spoke in support of the application. He stated that he owns Meriden Animal Hospital and is active on the west side of the county. He stated that he is a member of the Chamber of Commerce as well. He stated that the county lack business that sell items that are \$1,000 to \$1,500 or more. He stated that trailers and saddles both cost more than that amount so they generate a lot of sales tax dollars for the county. He stated that the business is in USD 340 and he is on the school board there. He stated he is in favor of any family business that will enhance the tax base. He stated that he owns property just west of the businesses. He stated that there is only one property between his property and the businesses. He stated that rodeoing has benefited his family greatly. His continued that his son competes in rodeos and he has paid for his entire first two years of his education by doing so. He continued to speak about the youth in our community. He asked the Planning Commission Members to think about how many baseball fields there are in all of the towns in Jefferson County. He then listed the number of fields in each community that are maintained by tax payer dollars. He stated that there is only there is only one riding arena that is partially maintained with tax payer dollars. He stated that there are four other saddle clubs that are maintained by the clubs without public support. He stated that this arena would be a blessing as Russ and Dina have allowed many groups to use the arenas at no cost. He stated that these events will also bring in people from outside the community that will hopefully spend some of their money here in Jefferson County. He stated that in closing he did not want to leave the commission with the wrong impression that he was biased in support of the R-Bar-B business. He continued to state that his business just north of the applicant's business is a competing business for him in many ways. He stated that he offers vet services but other than that they both sell feed, vet supplies, and all types of animal products. He stated that they are in competition that they will also grow with each other because there are aspects that will grow with each other.

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

Barney Barnett, located at 3166 39th Street, spoke in opposition to the application. He stated that he lived at the residence directly adjacent to the business to the west. He stated that the Brown's have always been good neighbors and that what he had to say tonight was nothing personal. He stated that he was just there to speak against the expansion of the business. He presented to the board a signed petition from others on 39th Street and to the east in Detlor Acres. He continued to state that just looking at it from the view of the comprehensive plan the expansion should not be allowed. He stated that the property is zoned agricultural as well as many of the surrounding properties. He stated that that the comprehensive plans stated that future development should surround existing cities to utilize existing support systems and the comprehensive plan discourages spot development which this would be an example of. He continued that the development plan stated that future development should be along major highways and this development was $\frac{3}{4}$ of a mile from a major highway. He stated that from the meeting minutes in 2007 Mr. Brown stated that he did not want to grow the business any further and if he did he would consider moving it. He presented that Planning Commission a print out of a power point presentation and cited several pictures from it. (See case file, too long to insert into minutes.) He then addressed the camping aspect of the revision, he stated that the KOA Campground was just down the road and he did not see the need for people to camp on Mr. Brown's property to prepare for events. He cited the power point presentation and the size of the building. He stated that they boast that they are the largest supplier of the western products in northeast Kansas.

Marta Barnett, located at 3166 39th Street, spoke in opposition of the application. She stated that she did not oppose this when it was a small business but she is opposed to the expansion. She stated that she has concerns about the noise, dust, traffic, and the visual impact. She stated that when diesel trucks come over the hill in front of her house they are loud enough that they can be heard from inside the house. She state that when trucks are there in the dark their head lights shine right towards her house from the business.

END OF PUBLIC COMMENT

Commissioner Johnson asked Mr. Noll to walk them through what Mr. Heston said about the water systems on the property. Mr. Noll answered that Mr. Heston stated that currently the house and the store are on one wastewater system and that system is old and should be replaced. Mr. Noll continued that the wastewater systems should have been reviewed in the past as part of the revision in 2007 or part of one of his building permits and they were not. He stated that this is not the applicants fault as he should have been required to complete these review by county Staff. He stated that he found no evidence that Mr. Brown had ever been asked to complete a sewer review. In this current review process Mr. Brown's systems were found to be failing. He stated that the system has some form of laterals that were leaching out into a rocky area. He continued that this is the basis for condition number 6. Mr. Noll read from Mr. Heston's review that the best solution would be to install a pump for the existing house and business to pump sewage to the same lagoon that is required for the camping and the concessions stand.

Commission Johnson asked if the 2007 revision had any restriction on future expanded special events. Mr. Noll stated that no there was not. He that the conditions placed on the conditional use permit last time by the Planning Commission were a limitation on hours of operation and a limit of no more than 35 trailers for sale at one time. He stated that when the Board of County

Commissioners approved the conditional use permit the limit on the hours of operation was removed prior to its approval.

Commissioner Johnson asked Mr. Brown if was comfortable with the comments that Mr. Heston made regarding the required systems. Mr. Brown stated yes. He continued that he did not know how the review had been overlooked in the past. He stated that they would construct a lagoon that would service the camping and a building when or if the ever built one for arena and they would hook the house to it. Mr. Noll stated that he wanted to make sure that it was clear that condition 6 required that they build a restroom facility at the arena by early next year and that if they wanted to they could wait for the concession but not for a restroom building. He stated that because they have issues with the house and business they have to do something anyway.

Commissioner Bailey asked about the condition that placed a limit on the number of people at events. He stated that he has been to a lot of horse show where there are a lot more than 250 people there. He asked Mr. Brown if that was going to be an issue. Mr. Brown stated that he did not know. He stated that that is the problem with limitations. He stated that his largest event had 118 participates and probably as many spectators, so he said he would have been pushing that number. Mr. Noll stated that the limitation of people was a number that he had produced that limited the number of people that would be at an event to decrease the impact on the immediate area and also would require Mr. Brown to submit for a onetime special event permit for any amount larger than that. He stated he was not given a number that the lagoon would be designed to but at some point we should take a look whether or not he needs portable toilets, road control or special signage for a onetime large event. He stated that the intent of condition 2 was not to say that he could not have a larger event it was recommended to place a limit on the size event before additional reviews were completed. Mr. Brown stated that the average event that they have had is 50 to 100 people. He stated some were as small as 15 people. He stated that what they are doing is not a spectator type event. He stated that the only people watching are friends or family that has come with participates.

Commissioner Bailey asked Mr. Brown about the picture in Mr. Barnett's presentation that showed vehicle parking on the road. Mr. Bailey stated that he wanted to know if that was going to be eliminated. Mr. Brown stated that the reason that that happened was that it was a muddy. He stated that that weekend they used the arena along the road. He stated that he had not yet gone to the expense of graveling his parking area in the back since he had not yet had a permit approved to continue to have events. Mr. Bailey asked Mr. Brown if the he was going to have the area graveled because he cannot have people parking along the road. Mr. Brown stated yes.

Commissioner Curry asked when he had his event with 118 participates was there room for all of the trucks to park and turn around within the property so that no one was on the road. Mr. Brown stated that at that event no one parked on the road and that all of the participates were able to park north of the business in the arena parking area.

Commissioner Johnson asked Mr. Noll if a graveled parking area should have been part of his Staff Recommendations. Mr. Noll stated that the recommendation were what was presented. Commissioner Wood stated that he agreed with Staff that it should not have been included in the conditions of approval. Commissioner Bailey stated that he also agreed. Commissioner Wood

stated it is his opinion that they could state that no parking is allowed within the county road right-of-way but it is up to the applicant to decide whether or not to have an event if he cannot provide parking. Mr. Noll stated that they have done both in the past required graveled parking and no parking in the right-of-way. He stated that the event that the day people parked along the road was not a riding event anyway. He stated that it was event that showcased other local businesses and allowed other people to come in to his business for one hour apiece to promote their service. He stated that if they were holding a riding event if it is too muddy to park than it would be too muddy to ride in the arena and the event would be cancelled anyway. He stated that he planned on seeding the area now that the dirt work is completed.

Commissioner Johnson asked Staff about the lack of a requirement of trees as a buffer. Mr. Noll stated that due to the fact that it would take decades for trees to mature to height that would act as a buffer they had not made the recommendation of a tree buffer. Mr. Noll stated that the ideal location for an evergreen buffer would be on the Barnett's property. Mr. Noll stated that there is 450 feet between the Barnett's residence and the Brown's property line.

Commissioner Johnson asked if the road department had conducted a traffic review for the application. Mr. Noll cited the letter from Mr. Hubbard the Jefferson County Road Superintendent.

ACTION: Commissioner Bailey made a motion to approve DP2013/05 with Staff's recommendation with the addition to condition number 4 that all speaker systems must be directed away from neighboring houses. Conditions included in the motion are as follows:

- 1) Camping shall be limited to camping for events only. The site shall not be used as a year round commercial campsite.
- 2) Events shall be limited to equine/cattle and agricultural events only. No other events shall be allowed without a Special Event permit including but not limited to concerts.
- 3) Events hours shall be no later than 10:00 PM Sunday-Thursday and 12:00 AM Friday and Saturday and no Event shall start prior to 7:00 AM.
- 4) All arena lighting shall be directional lighting directed toward the arena. Parking lighting can be flood lights but must be covered by a filtered lens. All speaker systems must be directed away from neighboring houses.
- 5) Safety signs for truck traffic must be installed by the county at the expense of the owner as stated in the traffic review by the Jefferson County Road Department.
- 6) A restroom facility with camper waste disposal hookups must be constructed with proper permitting for a wastewater system by the Jefferson County Health Department at the arena for the events before June 1, 2014. Portable restroom facilities shall not be used at the site after said date. In conjunction with the construction of this facility all other waste water systems on the property must be functioning properly by said date.

Commissioner Wood seconded the motion. Motion carried unanimously.

Item 6. TEXT AMENDMENT TA2013/01 – Proposed amendments to the Floodplain District Regulations in the County’s Zoning Regulations to amend Section 14-104.1(D.4) Provisions for Flood Hazard Reduction – General Standards, by defining what is an acceptable manner to prevent water from entering or flooding components and Section 14-104.2(A&B) Provisions for Flood Hazard Reduction – Specific Standards, by changing the requirement of a 1 foot minimum to 1.5 feet and Section 14-104.3(B.4 & C.1) Provisions for Flood Hazard Reduction – Manufactured Homes, by changing the requirement of a 1 foot minimum to 1.5 feet. Initiated by the Board of County Commissioners on August 5, 2013.

Mr. Noll presented the staff report for the text amendment. He stated that the wording needed to be changed to add additional protection to future homes HVAC ductwork and so that newly constructed homes that will be required to build 1.5 feet above the Base Flood Elevation as determined by FEMA will be rounded to 2 feet for insurance purposes. This would reduce the premium that the residence of the house. He stated that the added cost of construction to raise the building whether commercial or residential an additional six inches would be quickly offset by the saving the owner would see in their insurance premiums.

Mr. Noll went to discuss the county’s application into the CRS program and continued compliance with the NFIP program. He stated that they a goal of reaching a level 7 which would reduce the cost of mandated flood insurance for Jefferson County residences by 15%.

Mr. Noll made the following statement regarding the application:

Staff recommends approval of TA2013/01 for above referenced reasons.

END OF STAFF REPORT

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 Johnson made a motion to approve TA2013/01. Commissioner Wood seconded the motion. Motion carried unanimously.

Item 7. Public Comment

No comment was given.

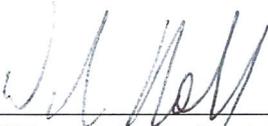
Item 8. Discussion of New, Old, and Other Business:

Update of the September cases.

Item 9. Adjournment

Action: Commissioner Wood made a motion to adjourn. Commissioner Johnson seconded the motion. Motion carried unanimously.

Minutes taken by:



William Noll, Zoning Administrator

Approved:

12/23/2013

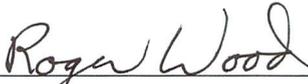
Date

Chairman:



Matt Scherer

Secretary:



Roger Wood