

Jefferson County Planning & Zoning Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of Planning Commission Meeting of December 23, 2013

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

Absent: No one.

Item 1. Call to Order.

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

Item 3. Approval of the October 28, 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 October 28, 2013 minutes, seconded by Commissioner Bailey.

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

Item 4. Z2013/08 by Janet Jaeger to change the District Zoning Classification from “RR” Rural Residential to “SR” Suburban Residential. This property is located in the Southwest Quarter of Section 14, Township 9 South, Range 18 East of the 6th P.M., Jefferson County, Kansas. Record Owner of the property: Janet E. Jaeger. The address of the parcel is 12184 Labette Road, Oskaloosa, KS 66066. The property is located in the Southeast quadrant of the intersection of Labette Road and 122nd Street.

FINAL PLAT REVIEW of “Gold Hills Subdivision”. This property is located in the Southwest Quarter of Section 14, Township 9 South, Range 18 East of the 6th P.M., Jefferson County, Kansas. Record Owner of the property: Janet E. Jaeger. The address of the parcel is 12184 Labette Road, Oskaloosa, KS 66066. The property is located in the Southeast quadrant of the intersection of Labette Road and 122nd Street.

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 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 K-92 Highway and the City of Oskaloosa, 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 by the appropriate agencies.

Staff recommends approval of Z2013/08 and the Final Plat of Gold Hills 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. Mr. Noll stated that he did not know exactly how the driveways would be addressed as the road department did not state in their letter how the culverts would be addressed.

Commissioner Bailey asked Mr. Noll to point out where the property was located again. Mr. Noll did so.

Commissioner Johnson asked about Mr. Hubbard’s letter stating that the culverts did not meet county standards. Mr. Johnson asked what would be done to correct this issue. Mr. Noll stated that he was not sure as the letter did not state whether or not the applicant was responsible for the upgrade or if the county was going to do that. Mr. Noll stated that it has been his experience that these types of upgrades have been handled both ways in the past. Commissioner Johnson asked if the board needed to put a condition of approval on the rezoning requiring that the culverts be upgraded. Commissioner Wood stated that they did not need to because the county had done his for him. Mr. Noll stated that he was not going to guess and that he planned on having Mr. Hubbard present during the County Commissioner meeting to address this issue.

Chair Scherer asked if Staff had received any phone calls in regards to the application. Mr. Noll stated that they had but none that raised any specific concerns. He stated that they were people wanting to know what was going on.

END OF STAFF REPORT

Chair Scherer asked if the applicant was present to speak on their behalf. Mr. Noll stated that he was not present. Discussion was held as how to address the situation during which the applicant arrived. Chair Scherer stated to the applicant that he had missed Staff's presentation of his case but if he wanted to he could say something on behalf of his application. Mr. Rick Grimmet spoke on behalf of the application. He stated that he just wanted to get the applications approved so that he could sell the property.

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

Commissioner Johnson asked Mr. Noll to review the history of how the parcel became to be considered non-compliant as it does now. Mr. Noll stated that in 1994 the County Commissioners passed Subdivision Regulations. At which time they accepted and zoned all parcels as they were. After which time a property less than 40 acres must go through a county process when divided to be considered compliant. This property need to be rezoned from "RR" to "SR" because it was less than the 10 acre minimum required to zoned "RR" and then it needed to be platted into a subdivision. This property was created in 1998 after the regulations took effect without going through a review process.

ACTION: Commissioner Wood made a motion to recommend approval of Z2013/08 and the Final Plat of Gold Hill 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 Wood answered yes.

Motion carried unanimously.

Item 5. Conditional Use Permit CU2013/08 by Michelle E. Ryan for the proposed use of a Cage Free/Kennel Free Pet Boarding Facility on land described as: Part of the Southeast Quarter of Section 7, Township 9 South, Township 20 East of the 6th P.M., in Jefferson County, Kansas.

The address of the parcel is 18714 126th Street, McLouth, KS 66054. The parcel is generally located in the northeast quadrant of 126th Street and Albright Drive.

The current request has been submitted to operate an animal boarding facility.

Mr. Noll presented the staff report and a power point with maps showing the property's location in relation to the 126th Street and K-92 Highway, surrounding zoning and land use, the notification area of the Conditional Use Request, the current use of the property, and the proposed use of the property. Mr. Noll stated that he had received letters of support regarding the application and also calls of concern that he believed had been addressed that he would pass to the board if the need arises.

Mr. Noll highlighted that changes were going to be made to the development plan to relocate the driveway location from Albright Drive to 126th Street. Mr. Noll stated that from the road review letter Mr. Hubbard had approved a new driveway coming directly off of 126th Street. Mr. Noll stated that this change had been made to address the concerns that he had received regarding the application from the properties owners to the north on Albright Drive.

Mr. Noll stated that a sanitary system from an old house was going to be utilized for the business building. He stated that this was approved by John Heston with the Jefferson County Health Department.

Staff recommends approval of CU2013/08 by Michele Ryan with the following condition:

- 1) Limit the number of animals at the facility to 35 at any one time.

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.

This was the one condition placed upon the last dog boarding kennel that was approved. Staff would have recommended a fence and vegetation buffer along Albright Drive but the applicant shows that she will build and plant one in her development plan. This could be added as a condition in order to ease the possible prosecution of the violation if it is not constructed but it should not have to be added.

END OF STAFF REPORT

Chair Scherer asked the applicant if she would like to speak on her application's behalf. Mrs. Ryan stated that she has operated this business in the City of Leavenworth on a ¼ acre lot for the past five years. She stated the idea of her business is a cage and kennel free boarding facility that acts primarily as a dog daycare. She stated that all animals are pre run for disposition and are monitored 24 hours a day.

Chair Scherer asked if she was aware of the restriction of the number of animals that she could have at her facility. She stated that it was fine with her.

Commissioner Johnson asked Mrs. Ryan how many dogs she practically could take care of. Mrs. Ryan stated that in the city on only ¼ of an acre she had 22 dogs over one Christmas. She stated that 20-25 dogs is the most that she can handle by herself. She stated at that point she needs help. She stated that on her Department of Agricultural Kennel Permit she may have as many as 30 dogs and they had approved her facility for that number.

Commissioner Johnson asked if all ages and breeds of dogs are allowed. Mrs. Ryan stated that any dog that passes the meet and greet with her dogs and the owner says that it is properly socialized is accepted. She stated that she has seen from her experience that the breed of the dog is not as important as the fact that it has been socialized to other dogs.

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. William Karl the property owner adjacent to the applicant to the east stated that he had a question. He asked how the dogs would be contained or fenced on the property. Mr. Noll pointed out the fenced area the applicant had drawn on her development plan.

END OF PUBLIC COMMENT

Commissioner Johnson asked Mr. Noll to show him where the fenced area along 126th Street will be. Mr. Noll pointed it out on the Development Plan.

Commissioner Johnson asked Mr. Noll if he had already issued the building permit for the 30'X36' foot building where the business was going to be located. Mr. Noll stated that he had issued a building permit to the applicant to build a metal building. Commissioner Johnson asked Mr. Noll if he issued the permit in anticipation of her getting a Conditional Use Permit. Mr. Noll stated no. Commissioner Johnson asked if the building was specifically designed for its intended use. Mr. Noll answered no. He stated that it is a cage free/kennel free facility. He continued by stating what they have already partially built is not a typical kennel building with a bunch of cages and runs, it is an open metal building that could have any use. Mr. Noll stated that because

someone may ask for a Conditional Use for a building does not mean that we will not issue them a permit for a building because the building could be used for another allowed use. He stated that it's just another metal building that can be used for storage until the use is approved. Commissioner Johnson asked Staff if they then believed that the design of the building was not specific enough to deny her a building permit until the Conditional Use Permit was approved. Mr. Noll stated that a person could build a whole metal building full of cages and runs with a building permit it just cannot be used as an animal boarding facility until they are properly permitted. He stated without building codes we cannot define exactly what must be built as a dwelling, shed, metal building, or ag structure. So to say that a one's building is designed for an unapproved intended use would not be within the regulations. He continued it is not a violation until after the use has occurred and has been documented. Commissioner Frakes stated that all she needs to do is meet the setback requirements.

ACTION: Commissioner Frakes made a motion to approve CU2013/08 with Staff's recommended condition of:

- 1) Limit the number of animals at the facility to 35 at any one time.

Commissioner Noll seconded the motion.

Commissioner Johnson stated that he wanted to discuss barking control. He asked Mr. Noll if that was a concern. Mr. Noll stated that it is always a concern when dealing with dogs. He continued that the applicant had shown the planting of a vegetation barrier along Albright Drive and there was some existing vegetation along 126th Street. He stated that because the property was at the end of a dead end road the only traffic passing on 126th Street would be from the neighbor across the round and the applicant themselves. He stated that the letter of support that they had received was from the neighbor across the road and they had expressed that they were not concerned with the applicant's wishes to open the boarding facility. Mr. Noll read portions of the letter. Mrs. Ryan stated that she had included letters from two of her neighbors from her small property in Leavenworth stating that they had never had any issues with noise. She stated that she had never had any noise complaints. She continued by stating that dogs that are cage and are allowed to be active and interact with other dogs do not tend to bark all of the time like bored caged dogs do. She stated that they may bark at a squirrel or something but they won't generally just bark repeatedly. She said that she is there with the animals all of the time and if one is barking too much she will correct the dog.

Motion carried unanimously.

Item 6. Public Comment

No comment was given.

Item 7. Discussion of New, Old, and Other Business:

Update of the October cases.

Item 8. Adjournment

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

Minutes taken by: W N Noll
William Noll, Zoning Administrator

Approved: March 24, 2014
Date

Chairman: [Signature]
Matt Scherer

Secretary: Roger Wood
Roger Wood