

Jefferson County Planning & Zoning Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of Planning Commission Meeting of March 27th, 2017

Item 1. Call to Order.

Item 2. Approval of the Agenda

CHAIRMAN SCHERER CALLED FOR THE APPROVAL OF THE AGENDA. COMMISSIONER FINLEY MAKES A MOTION TO APPROVE THE AGENDA AS PRESENTED. VICECHAIR JOHNSON SECONDS THE MOTION.

Votes were taken by Ayes and Nays as follows:

Matt Scherer	Paul Johnson	Vacant	Jerry White	Vacant	Matthew Finley	Brandon Newman
DNV	Aye	---	---	---	Aye	Aye

Item 3. Roll Call

Matt Scherer	Paul Johnson	Vacant	Jerry White	Vacant	Matthew Finley	Brandon Newman
Present	Present	---	---	---	Present	Present

Staff Members Erin George, Planner I, and Dustin Parks, Zoning Administrator were present.

Item 4. Approval of the February 27th, 2017 minutes.

CHAIRMAN SCHERER ASKED IF THERE WERE ANY CORRECTIONS OR ADDITIONS TO THE MINUTES.

ACTION: *SECRETARY NEWMAN MAKES A MOTION TO APPROVE THE FEBRUARY 27TH, 2017 MINUTES, COMMISSIONER FINLEY SECONDS THE MOTION.*

Votes were taken by Ayes and Nays as follows:

Matt Scherer	Paul Johnson	Vacant	Jerry White	Vacant	Matthew Finley	Brandon Newman
DNV	Aye	---	---	---	Aye	Aye

ITEM 5: Public hearing of PR2017-01 and Z2017-01

Chairman Scherer – A request to replat and rezone a piece of property generally located on the Northwest corner of 24 HWY and Ferguson Rd on the West side of Ferguson. The rezoning request is to change the lots from Agricultural to Rural Residential. I'll ask members of the planning commission if anyone has had any exparte communication regarding this or has a potential conflict of interest. Seeing none, I'll ask Staff for a report.

Dustin Parks: You've kind of already gone over the summary. This here (Referencing map on projector screen) is the location of the request. This is HWY 24. Here's the City of Perry this is the Northwest side of HWY 24 and Ferguson rd. This is the current zoning map of the area. All of the green that you see are Ag Zoned, the Oranges are RR zoned, the Blues are SR and the Blue highlighted are the two parcels in question. This is currently two parcels. This is the floodplain map. As you can see a good portion, probably two thirds, is inundated with floodplain. The way the subdivision is proposed is the southern lot will contain almost entirely floodzone and the next two lots will progressively have less as it goes farther North. This is an AE zone, which means we do have base flood elevation information available. It is very, very, close to the creek and the ability to raise the ground high enough to build will be very costly. This is our notification area, which is everything within 1000ft in the county, and then bumps down to 200ft inside the city limits. As soon as our notification area hits a city limit we drop it down to 200ft inside the city limits. This is the preliminary plat. As you can see they show the floodplain on that plat. Lot 1 is on the North, lot 3 is on the South. This is what the final plat proposal is. It gives you a little bit of a clearer picture.

My overview of the report is that properties to the North, East, South and West have Rural Residential. South also incorporates some SR and CP3 districts. To the West is only RR and to the East is some R-1, some RR and some AG. The total area is 37.41 acres.

The existing entrance at 2187 Ferguson Rd on the West side of Ferguson Rd meets the current standards of having a 30ft wide entrance. It's not possible to have any more entrances on that lot due to the bridge. Other entrances are possible to the North on other lots. Each would need to be individually decided upon by road and bridge.

This is located in Jefferson County RWD #2. The letter for the Health department: Lot 1 consists of 10 acres, they recommend that the best building site on this lot is on the far East near Ferguson Rd. The soils on the East side are of the Shelby and Reading Series. Shelby soils are moderately drained and permeability is slow. Reading soils are well drain and permeability is moderate. Lot 2 will also consist of 10 acres and the best building location is also on the East side. You can see how this correlates very closely with the Floodplain. The soils there are Reading. And lot 3 consists of 17.9 acres and this lot is none buildable due to being located in the floodplain for sanitary sewer systems.

We did field general questions. 4 via phone calls and 1 in person. They were just asking "what was the potential for building" and how many homes could be built, that sort of thing. No one left comments for us to record, they just had questions. We always recommend people write in or come to the meetings to give us something to put in the minutes. As I've stated the applicant would like to plat 37.41 acres in to those 3 lots. If the rezoning were approved, then zoning would go from Ag to RR. The creation of the subdivision does correct a noncompliance issue with the existing 4.52-acre tract. Let me go back to how this parcel currently looks. This piece here is considered non-compliant. It was technically split illegally and this would help correct that issue. Actually, it would entirely correct it, not just help it. We did review

the plat and found that it appears to meet the subdivision requirements. The city of Perry was notified prior to the previous meeting and they still have not responded.

Vice-chair Johnson- Could you put the final plat or the preliminary plat back up?

Dustin Parks: Do you want to see the floodplain, or just the lots.

Vice-Chair Johnson – Just the lots,

Dustin Parks: Okay.

Vice-Chair Johnson – Where is the existing entrance right now?

Dustin Parks – There are two. There is one down here South of the bridge, and there is a rough field entrance North of the bridge.

Tom Holroyd – Dustin, there is another one right there. It's so overgrown that you really can't see it, but it's there.

Dustin Parks – Okay, it's not one that the road and bridge dept. commented on.

Vice-Chair Johnson – I noticed we had two letters from the Road Department. One said that no other possible entrances on that lot due to the bridge and the other one says they would allow other entrances North of the bridge but the exact location of the entrances must be reviewed before installing. So, they're saying for Lots 1 and 2, if sighted correctly...

Dustin Parks – Other entrances are possible.

Vice-Chair Johnson – I'll come back to that one.

Chairman Scherer – Other questions?

Commissioner Finley – I would like to look at the floodplain again. Looking at this, there's not a lot of room on lot 2 except towards the Eastern extremity to build on.

Dustin Parks – Technically they could build here (Referencing a high spot in elevation on Lot 2) or back behind.

Commissioner Finley – With Zone X, what bearing does that have on building?

Dustin Parks – Zone X is considered non-regulatory floodplain. So, this green is considered non-regulatory floodplain and the light green is considered what they call Shaded Zone X. Which is the .02 percent flood. Which means, we don't regulate to it. We treat residences as though they are not in the floodplain. Critical infrastructure like fire departments would have to build like it's in the floodplain. The Orange is the actual measured flood zone AE.

Chairman Scherer- .2 percent

Dustin Parks – Did I say .02? Yeah, .2. I apologize.

Chairman Scherer – Other questions? Did you discuss with Health Department staff why there were no soil types indicated on the West side of the property?

Dustin Parks – They were only concerned about where it was okay to build.

Chairman Scherer – That’s why I wondered why it wasn’t proper to build on the other side. Other questions? Seeing none I’ll ask if the applicant would like to speak to the application.

Tom Holroyd – Not unless you have any questions. It’s pretty clear.

Chairman Scherer – Do we have questions for the applicant at this time? Oh, I guess you should introduce yourself just for the record.

Tom Holroyd – Oh, I’m Tom Holroyd. I bought the top section at one time, and then ended up buying the one section later on because I wanted to get it all together. I live in Perry. I’ve been there for 35 years now.

Chairman Scherer – Do we have any questions at this time for the applicant?

Secretary Newman – Is your plan to just sell these or build or?

Tom Holroyd – Well, me and Dustin had this discussion about why I almost stopped the whole thing a few months ago. I went to a city council meeting in Perry and they expressed a great interest in Annexing the whole thing. Which before they always said “We don’t want to do that.” I walked into a meeting, and Wayne Ledbetter was there and he said “Tom, did you plan to come in?” and I said “No, I just came in out of the blue and asked if they wanted to annex and they were all excited about it.” I guess they are having problems with water getting to Bernies and all that. So if they were annexing a whole lot more it would make more sense.

Vice-Chair Johnson – Does it fall with in Perry’s Urban Boundary?

Dustin Parks – Uhm, no, not really. It falls with-in our notification area but that...what is it a half mile? Where cities ask us to incorporate zoning it does, which is why we send them notification and give them a chance to comment. I actually advised Mr. Holroyd to go through the city if he could get it annexed because it probably would have been a little less restrictive on how much he could split it into. He chose to go this route, and if it were to approved here it would be well above what the city of Perry would require.

Chairman Scherer – Other Questions? Seeing none I’ll ask if at this time there is anyone would like to speak in favor of the application? Seeing no-one I’ll ask if there is anyone who wishes to speak in opposition to the application? I’ll ask if there is anyone who wishes to speak to the application, including the applicant, before I close the public comment portion of this hearing? At this time, I’ll close the public comment portion of the hearing so we can make a recommendation to the county commissioners. Any other questions for staff or the applicant?

Vice-Chair Johnson – Are there determinations made on how many road cuts into Ferguson is, I mean, that makes sense for the county and for traffic flow on that?

Dustin Parks – When Road and Bridge does that, that’s something they take in to account. Traffic Counts, accessibility, how many other entrances there are, hills, sight distance that sort of thing.

Vice-Chair Johnson - And could Road and Bridge mandate that lots 1 and 2 share an entrance?

Dustin Parks – If it was determined that that’s what is needed then they could do that, yeah.

Vice-Chair Johnson – And they do that off the number of road cuts that exist, the traffic counts and potential traffic hazards?

Dustin Parks – For example, let’s say that lot 2 was on a hill, and lot 3 wasn’t. They could say that lot 2 can only get access through lot 3. They’d have to share an entrance. That takes into account when they say that each other entrance will need to be studied at the time of application. I’ve seen it before, since I’ve started, where they’ve said this needs to have – KDOT has done it – Where they’ve said “If you go through with this, you’ll have to have an entrance. Actually, a good example of that is directly South on US 24. The Propane business and the Dollar General share an entrance off of 24. The road department could do that as well.

Chairman Scherer- Any other questions or commentary? Can anybody provide a motion?

Secretary Newman - I would motion to approve PR2017-01 and Z2017-01 based on Staff Findings.

Chairman Scherer – We have a motion to approve PR2017-01 and Z2017-01 based on findings of staff.

Vice-Chair Johnson – Second

Chairman Scherer – And we have a second, any further discussion? Hearing none, all of those in favor please say Aye. Those opposed? It was unanimous. Our recommendation will go to the county commission and I’m sure staff will let you know in just a minute when that will be.

Matt Scherer	Paul Johnson	Vacant	Jerry White	Vacant	Matthew Finley	Brandon Newman
DNV	Aye	---	---	---	Aye	Aye

Passed 3-0

Dustin Parks – April 17th, and our hearings are usually between 1:30 and 2. It is not required to attend, but if you would like to do so, feel free.

Chairman Scherer – The next item on our Agenda is PR2017-02 a request to consider the final plat of Dunavant Replat Number 1 a 5 lot subdivision generally located North of 4th between Grant and 142nd. At this time I’ll ask the members of the planning commission if anyone has had any exparte communication or has a potential conflict of interest? Seeing none I’ll ask for the staff report.

Dustin Parks – As stated, this is a request to consider the final plat of the Dunavant Town Replat Number 1 a 5-lot subdivision. This is the location of the request (referencing projected map). Here’s Hwy 59, over here is the City of Winchester. Here’s 142nd St and this is the plated town of Dunavant. This is the current zoning map. This orange is a little misleading it’s the Village 1 district. It’s very close in color to the Rural Residential Zoning, but it’s a little more brown. This Village 1 district is our least restrictive in terms of road frontage because it’s used for village districts like Bill’s town. Where they’ve been platted and were never incorporated, or they stopped being incorporated for some reason. The zoning around it is SR for the most part, and then AG past 142nd and Osage. RR up on the corner, and SR on the other side of Osage and 142nd.

This is the floodplain map, there isn't any in the area. This is the notification area. Since it's all in the unincorporated areas of Jefferson County that means it's a 1000ft radius. So everyone who owns land within 1000ft of the parcel in question receives a notice in the mail. This is a preliminary plat. It's a little hard to read here so I'll switch over real quick so we can see where some existing ponds are. So this is what would be the final plat. You can see every individual lot here like lot 5 has a whole bunch of little lots in it, lot 4 has a whole bunch, lot 3 has a whole bunch. Those are the old platted lots for the town of Dunavant. So theoretically those all eventually, or at one point, were planned to be houses or at least residential lots. What this does is takes all of those and combines them into a 4 acre lot, a 3.26 acre lot, a 2.79 acre lot, 2.71 acre lot, and another 2.71 acre lot. As I said earlier, the surrounding zonings are SR and V-1. Total lot size in question here is 16.5 ish acres. There is no SFHA.

Each lot would be allowed 1 entrance, but each lot would need to be reviewed before installation because of sight distance, curves and materials needed. This sort of plays in to your previous question, Paul, about access for there. Since there are a lot of other entrances along here. They may determine for this lot to get access, they'd have to share one. The waste water letter, The health Dept. says there is plenty of area to install a system on each lot, but building location may be important on some of the lots to ensure proper drainage. The soil in the area is of the Grundy series and they are moderately well drained to somewhat poorly drained, but they do have high availability of water capacity and permeability is slow. It is within the confines of JF RWD #12. There will not be a re-zoning required. The V-1 district is allowed at 2, 3 and 4 acres. It just maintains because it is inside the original platted area of a unincorporated town. We did not receive any questions from the time of posting to the time of writing this. There were some questions at the very beginning of the process back in November or December. We got a couple of questions because of stakes going up, and earth work being done on the property. None directly related to the hearing after publicly posting. For this one since there is no rezoning the planning commission may recommend an approval or a denial. We recommend, based on our findings, that it be approved because it fits the requirements and makes larger lots than is currently present and would allow for potential expansion of the town of Dunavant.

Chairman Scherer – Any questions for Staff at this time?

Commissioner Finley – I have a few questions about the vacated street. Especially there on lot 2, it looks like part of Washington Street has been vacated, but part of it hasn't been? Would that be correct?

Dustin Parks – On the original town plat part had part hadn't. The entirety of it has officially been vacated. When you got the research (speaking to Stephen Tufty with American Surveying – Agent of Applicant) for the section of Washington we actually went back and forth a little bit because where it says Washington St is vacated we had a public hearing not too long ago to have that vacated. Which portion are you seeing as not vacated?

Commissioner Finley – Well on there it just looks like there is a little jog here (referencing a map provided by staff from ARC GIS that did not reflect the most current changes due to recent vacations)

Dustin Parks – On the submitted plat itself, it says it's vacated.

Chairman Scherer – So the Southwest side is so to speak (inaudible)

Dustin Parks – Yeah.

Commissioner Finley – So on here 2nd street is vacated as well, but is that part of the 5th lot, I can't really tell.

Dustin Parks – Yes. It’s actually the access for the 5th lot. They are using what second st was as the access for the 5th lot. This may be a little better (referencing a zoomed in image of the plat on projector) This would be second st, and it is the access for lot 5.

Commissioner Finley – So lot 5 has no Northwesterly access?

Dustin Parks – Correct. They will be able to access off of Grant. There’s actually residential right here.

Chairman Scherer – That is a really odd lot, a T-Shaped lot. A skinny drive way.

Dustin Parks – The V-1 district does not minimum frontage requirements. It’s an odd lot, but since the V-1 doesn’t have frontage requirements, it’s permitted. The requirement is that they have to access to the road. It doesn’t have a minimum frontage associated with it.

Chairman Scherer – Other questions for staff, Paul?

Vice-Chair Johnson – How long ago was it platted under the V-1?

Dustin Parks – I don’t really know. I want to say it was prior to 1903.

Commissioner Finley – It looks like it says 10-01-1887.

Dustin Parks – Some of the railroads started doing their vacations in the 30’s and 40’s. Because portions of the railroad used to come across here.

Vice-Chair Johnson – Was this grandfathered in, then?

Dustin Parks – The Village District was, when it was implemented, inherently associated to anything that was a “town” that was unincorporated. So, if lots were large enough they went to SR if they weren’t they stuck with the V-1 at the time when they switched the zoning over.

Vice-Chair Johnson – Which is separate from the Lake side districts?

Dustin Parks – Yes. It is different than the Lake Lot zoning districts.

Chairman Scherer – Other questions?

Commissioner Finley – This is a stupid question, but the railroad right of ways have been definitively vacated, correct?

Dustin Parks – Oh yeah. It’s amazing how quickly the rail road pops up. They can ignore the line for 50 years and suddenly if there is a plat or anything about it, it’s amazing how quickly they show up.

Chairman Scherer – Other questions for staff? Seeing none, I’ll ask if the applicants would like to make any comments.

Stephen Tufte – Well I’m kind of representing John. I’m Stephen Tufte with American Surveying. And if there’s any other questions, I’d be glad to answer. I was going to mention that this town used to have a bank and plenty of stores and businesses believe it or not. You can’t see any signs of it any more though. The light rail actually

went to Kansas City and I think to Valley Falls which used to have six tracks. It's pretty amazing, you go out there now and it's just a few houses here and there and it's hard to imagine that they had all these stores and a bank. I just thought that was kind of amazing.

Vice-Chair Johnson- How long ago was that?

Stephen Tufte- That would have been the early 1900's and probably on into, I think the light rail lasted until maybe the 40's.

John Sloop – It wouldn't be that late. It came out before '36. I was born in '36 and they were taking up track in '36 when I was born.

Stephen Tufte – Yeah, it's been a while.

Vice-Chair Johnson – Could you walk us through a bit of where you think these drive way entrances are going to be on these lots?

Stephen Tufte – It's probably going to depend more on what the county relates to us on those. Because it's fairly flat on that Southwesterly side. I don't think there's going to be a sight distance problem. It's probably just going to come down to where they plan on building the house. Again, there's not really a sight distance problem on either one of those streets. So I think it will just be where they build, and it all has to be okayed through the road dept. prior to that. That's the best I could tell you right now, at this time.

Vice-Chair Johnson – Are there many other residences within a quarter or third of a mile?

Stephen Tufte – I believe we've got about 3 residences along there (referencing the map)

Dustin Parks – Yeah, there are 3 here, 1 here, 1 Northeasterly and then on down here on the Southwest.

Stephen Tufte – Those folks would probably be close in size to what these are. These may even be larger. At least a couple of football fields is the way I like to phrase it. So there are a few existing structures out there, and what John plans to do here would fit in with what's currently there now.

Chairman Scherer – Other questions?

Commissioner Finley – I guess I would ask either John or yourself is to have these houses be more rural homesteads rather than as a community? They'll have their own wastewater systems? How do you see that happening?

Stephen Tufte – Yeah, it would be the same basic system that other folks around there have. Kind of like Country in the City kind of thing. John plans on building the first house on one of those lots. A stick built custom house. That's what he intends to do, is offer house for local country folk.

Chairman Scherer – Other questions? At this time I'll ask if there's anyone who wishes in favor of the application? Seeing no-one I'll ask for anyone who wishes to speak in opposition to the application? And now, I'll ask if anyone wishes to speak before I close the public comment portion of the hearing? Seeing no-one I'll close the public comment portion of the hearing so that we may make our recommendation. Further Questions?

Vice-Chair Johnson – Question for staff; So we're back to this driveway question and the road and bridge folks. What would trip or mandate an interior road for these lots?

Dustin Parks – I don't know. That's a question for them.

Vice-Chair Johnson – I know we've gone back and forth on that in the past, in terms of... So, outside of Road and Bridge folks mandating shared entrances, they have the authority to go the next step and say that given the configuration of these road, access etc. that an interior road is a better solution?

Dustin Parks – Usually if it goes to that point we'll have had that in the letter, and they would have had to revise the plat to show a public road. We don't allow private road by regulation, so they would have had to put a public road in, if road and bridge felt that needed to be the requirement.

Vice-Chair Johnson - You're saying that recommendation should have come from the road and bridge folks.

Dustin Parks – If they felt that was required it would have been in the letter here, and you probably would have seen that change reflected here. Because they would have had to make the change to reflect those requirements.

Chairman Scherer – It's hard to imagine a situation like that unless there was only one entrance (inaudible)

Vice-Chair Johnson – Well, given that it's a village lot. These could have been much smaller lots? They could have been half acre?

Dustin Parks - Theoretically they could have platted this to represent everyone one of those as a lot. (referencing the original Town of Dunavant platted lots) Because that's how it was originally platted. I mean, yeah, they could have been much, much smaller.

John Sloop – And that may be what I should have done. That way people could buy as many lots as they wanted to and build on what they wanted to. Then we wouldn't have had to be here today.

Vice-Chair Johnson - If they kept the original plat they could have requested it?

Dustin Parks - They would have had to provide public sewer to keep it that small, but yes. Technically they could have. I've seen this before where they would have taken some of the lots and built a lagoon where all of those would go to a lagoon. So theoretically yes, but these all could have been one acre pieces and still gotten a sanitary sewer system by the health dept. requirements. This could have turned into 15 one acre lots and still gone with septic tanks.

Vice-Chair Johnson – I think that gets a little bit into your question (referencing Commissioner Finley's earlier question) about a shared community setting for what's the viability for planning purposes to be able to accommodate that.

Chairman Scherer – Further questions?

John Sloop – I think that's the reason people will spend money and drive 100 miles a day to go work because they don't want to be crowded. If they did, they'd go to Kansas City and live in a high-rise apartment 60 stories up. Dogs, one or two per apartment and they want to get away from that kind of living. They want to get into the school districts and into the country. Hopefully. There are two interested now, and there would have been likely one built.

Vice-Chair Johnson- The thought being that I think some folks are looking for a shared community setting where they don't want to deal with a couple of acres, but they want the semi isolation of a rural setting like this would be. Then there might be a green space they could share or walking paths. I think there are things coming for retirement communities that we need to be aware of.

Chairman Scherer – Any other discussion or a motion?

Commissioner Finley – I would move that we approve PR2017-02 based on Staff's Findings.

Chairman Scherer – We have a motion to recommend approval of PR2017-02 based on findings of staff.

Secretary Newman – I would second that.

Chairman Scherer – We have a second, is there further discussion? Hearing none, all those in favor of the motion to approve, please say aye? Those opposed? We have unanimous approval and staff will tell you when it goes to the county commission.

Matt Scherer	Paul Johnson	Vacant	Jerry White	Vacant	Matthew Finley	Brandon Newman
DNV	Aye	---	---	---	Aye	Aye

Pass 3-0

Dustin Parks – Same date, April 17th between 1:30 and 2pm.

Chairman Scherer – Our final hearing this evening is for PR2017-03 a request to consider the final plat of the Zirkle Corner subdivision a replat of Lots 1 through 4 of the Brumbaugh subdivision. Located on the east side of Anderson between 31st and 27th. I'll ask members of the planning commission if they have any conflicts of interest or ex parte communication? For the record, I'll note that I live just outside of the notification area. Seeing none, I'll ask staff for their report.

Dustin Parks – Here is the location of the request (referencing projected map). This is Grantville, here's HWY 24. This is 31st this is HWY 4. This corner right here on 31st and Anderson. Here is the current zoning map. When this subdivision went through, it was decided that the all the lots should be zone to the most restrictive of any of the lots for the Brumbaugh Subdivision. So, that is why you have some 7 acre lots and larger lots in Suburban Residential. As such, that is also why this will not require a re-zoning. There is a 14 acre lot propose in this, but because of the previous decision of the subdivision to maintain the most stringent zoning allowed it carries over into this replat. Here is the floodplain map. There is no floodplain. This is the notification area, that Matt does not currently reside in. Here is the preliminary plat. I'll go back one (referencing the PowerPoint slides being projected) Current the way it is platted, is 4 7ish acre lots. They would like to replat those to be 4, 3ish acre lots and 1 fourteen-acre lot. In essence creating one extra lot than previously platted. Each of these lots are roughly the exact same size at 3.37 acres and then the remainder being 14+/- . The site itself is SR, to the North are RR and AG, to the East is the rest of the Brumbaugh Subdivision which is SR, to the West is AG and RR and to the South is SR.

Each lot would be allowed at least one entrance and those entrances have to be reviewed before installing to due to sight distance. It is a 28.5 acre tract they would like to separate into four 3.3ish acre tracts and one 14 acre tract. The applicant will not require rezoning as I stated earlier, due to the existing subdivision being limited to SR. The

case PR2012_04 and Z2012_02 dictated that the lots of the Brumbaugh Subdivision should all be zoned to the most restrictive zoning being requested at that time. Initially the area was platted for four 7.5 acre lots, this division technically adds only a single lot to the existing Brumbaugh Subdivision. Roughly the Southern third of this property is in the AG enhancement overlay district. Because of the existing subdivision and SR lots to the South and East, as well as past decision of previously mentioned cases, it opinion of staff that it is consistent with the area of the neighborhood to fit in. We did review the plat and discussed the plat with their surveyor to make sure it would meet our criteria. We did find that it met those regulations.

The road department was a little more specific on this one. The existing entrance on 31st St – Let me get back to this slide right quick. Currently there is a structure here, which there is a photograph of in your packet, and that address is 3101 31st St. That currently does meet the road standards. It is possible for the other lots to get entrances, but they must be reviewed prior to installed due to sight distance and materials that may be needed. The health Department stated that there should be no problems installing water systems on the lots. The soils on Lot 2 are of the Pawnee Series which is moderately drained and permeability is slow. Lots 3, 4, and 5 are of the Geimer series. Those soils are well drains and permeability moderately slow. If any of the homes have walk out basements, then two systems may be required depending on the location of the house. There is an existing system on lot 1, which is what is being proposed as the 14 acre lot. It was installed in 2014 and meets all setback requirements and will meet the setback requirements of the proposed subdivision.

Commissioner Finley – While you're on that, sorry, could you talk more about that what walk out basement requirement? Why would they need two?

Dustin Parks – I don't know. I haven't seen that before, to be honest. I would assume that it may have something to do with the permeability of the soil.

Chairman Scherer - Any questions for staff at this time?

Vice-Chair Johnson – I'm intrigued with the second item up there. Those cases numbers dictated where the lots of the Brumbaugh Subdivision should be zoned in the most restrictive zone being requested. Why is that mentioned? Why is that listed that way?

Dustin Parks – Since this is a Re-Plat of the Brumbaugh subdivision, the initial decisions for the Brumbaugh subdivision will follow through with this subdivision. I read through that case, and actually it was you who proposed that it be the held to the most restrictive of whatever was being proposed for the zoning of that subdivision. So it was decided that the entire subdivision should be done as SR instead of having any RR for the larger lots. Since this is a replat of that subdivision, it carries over into this case.

Vice-Chair Johnson – So could there have been eight 2 acre lots?

Dustin Parks – They wouldn't have had the frontage for that. This what I talked to their surveyor about beforehand. There were, and please correct me if I'm wrong (directed to the applicant), the intent is to give a lot to each child.

Mr. Zirkle – I have four children and I want to give each of them a lot. That's all there is to it.

Dustin Parks – So this was the best equal way to do that when talking with their surveyor about road frontage, while still leaving the 14 acre tract.

Chairman Scherer - I remember being a little stressed about those deep lots in the original plat, so I kind of like splitting these down.

Dustin Parks – They barely, at the 7.5 acres they barely met the 3 to 1 ratio for SR.

Chairman Scherer – Which brings up my question, how does lot 1 meet that?

Dustin Parks – Barely.

Chairman Scherer – It actually does, huh?

Dustin Parks – It actually does, but barely. That's kind of the issue. If that lot was Ag or RR it would have no problems. On SR it barely meets it. By within 50 or so feet.

Chairman Scherer – Other questions for staff?

Vice-Chair Johnson – My last one, I think it's the first time I've seen that no site visit was completed?

Chairman Scherer – It's probably because they were out there in 2012.

Dustin Parks – Yeah, they probably used maps from when they were out there last.

Chairman Scherer – Other questions? Seeing none, would the applicant like to make comment?

Mr. Zirkle – Like I said, it was the whole deal to begin with. Just to give each of my kids a place to build if they want to. I'm not interested in selling any of it. I would say the 14 acres would be good to put a cow or two on. That would be it.

Chairman Scherer – I walk by there on that road during the summer to exercise. Any questions for the applicant? Seeing none, I'll ask if there is anyone present who wishes to speak in favor of the application? Seeing no-one jumping up I'll ask if there is anyone who wishes to speak in opposition to the application? I'll ask if there is anyone who wishes to speak to the application before I close the public comment portion of the hearing? Seeing no-one I'm going to close the public comment portion of the hearing so that we may make our recommendation to the county commissioners. Any further questions?

Vice-Chair Johnson – This will be for staff; Help me with the technical reason why that 14 acre lot doesn't go back to rural residential.

Dustin Parks – It could, if you guys said right here with a motion to change it to rural residential, that's perfectly fine. The previous decision that was carried through by the county commission agreed with the planning commission which means I have to carry that decision forward into any new hearings involving this subdivision. If you decide that it should be, and in my opinion it should be changed to RR because it meets that criteria far better than SR, but the previous decision was that anything inside the Brumbaugh subdivision be held to the most restrictive zoning of that subdivision. Since this is a replat of that subdivision, that carries forward.

Chairman Scherer – What would be consequences or how would be liberalized if it were moved to RR?

Dustin Parks – There wouldn't be a hares breath away from being over the 3 to 1, and they would be allowed to have a couple of cattle on it. Currently with SR they wouldn't.

Erin George – Yeah they would. It's over 3 acres so they would be able to do.

Chairman Scherer – Can you check that?

Dustin Parks – Yeah, of course. Which am I checking?

Chairman Scherer -There ability to have cows.

Dustin Parks – Okay, I just wanted to be sure.

Chairman Scherer – There seems to be a bit of conflict of opinion.

Commissioner Finley – While staff is looking that up, maybe you could explain this: You live around here, so was there a vision for this area or just people doing a piece meal deal? (To Chairman Scherer)

Chairman Scherer – Well, ours used to be part of the fruit farm. I don't believe north of 27 was.

Secretary Newman (jokingly) – I'm sure Meriden will move South soon and just take it all over.

Dustin Parks – If SR has over 3 acres they are allowed agricultural activities as an accessory activity.

Chairman Scherer- So, in SR you would be allowed to put a cow or two.

Mr. Zirkle – Do I need to do anything to get that done?

Dustin Parks – As the property currently stands you're okay. You don't have to do anything. As long as it doesn't become the primary use of the lot you're fine. If you used all 14 acres for pasture with no residence, then that's where you'd have a problem.

Chairman Scherer – My other question would be are there any other lots in the subdivision that are actually larger?

Dustin Parks – Yes

Chairman Scherer- I would question whether we would want to change one and not the others.

Dustin Parks – With this being a replat, you could if you wanted to because it doesn't affect the others. They could come in and request a rezoning if they wanted to.

Chairman Scherer- Right, because this is only re-plating that portion of the Subdivision.

Dustin Parks – Right. If this were the entire subdivision that would be different.

Chairman Scherer – The setbacks have changed since then?

Dustin Parks – The set backs are a little different, but the structures that are there already meet setbacks.

Chairman Scherer- So there wouldn't really be any change if it were rezoned to RR.

Dustin Parks – Other than it would look proper on the zoning map because it's over 10 acres, and the hares breath away from being 3 to 1.

Chairman Scherer – I did the math and it still doesn't look like it meets the 3 to 1. Other questions, comments?

Vice-Chair Johnson – Maybe a quick question: So, what was your phrase about substantial activity?

Dustin Parks – Primary. The primary use of the property is residential because there is a house. If it were just AG it couldn't be suburban residential. Since there is a residence the ag is considered an accessory use.

Vice-Chair Johnson – So if they fence 12 acres of it and had cow/calf operation on there?

Dustin Parks – It depends on the scale of the operation. We have to be able to say that what they are doing is a primary use or function of the property instead of an accessory to the residence. So, you'd have to have a feed lot or probably 40 or 50 head of cattle where that becomes the primary use of a smaller property, but with 14 acres that may not even be the case. Honestly, it would probably go to court to determine which use it is. Now, as I said, if there was no residence there and they just built a garage and had a couple of cows on it, that wouldn't be allowed in SR because the primary use would then be Ag. Since there's a residence, they're okay by what this says. Which I apologize and why I am appreciate every time Erin corrects me on this because the same person that wrote our regulations the regulations for Dickinson County as well...In SR you could do no Agricultural activities at all. Same acreage requirements and everything, but no Ag at all.

Erin George We find little stuff like that pretty often. It can be written the same way but ours is just a little different.

Dustin Parks – Some of them even have the same misspellings that the other ones did.

Chairman Scherer- Is there other discussion or is anyone ready to make a motion?

Commissioner Finley – I would move that we approve PR2017-03 based on the findings of staff.

Vice-Chair Johnson – Second that.

Chairman Scherer – We have a second, is there any further discussion?

Vice-Chair Johnson – Not to kick this dog, but we've pretty much decided that all things considered that there's really no particular reason to re-classify that 14 acre lot to RR?

Dustin Parks – No, and I wanted to double the check the math to make certain on the 3 to 1 ratio. Here is what the max 3 to 1 ratio would be. The width is 481.48 so the max depth would be 1444.44 and the actual depth is 1292.14. They did meet the 3 to 1 ratio. I remembered that we did the math early on, and that it met, but I couldn't remember exactly what it is so I wanted to show you just to be sure. As of right now, because of that, there is no real reason to reclassify it unless you wanted it to meet the acreage requirements.

Chairman Scherer – I guess I'll ask if you have an opinion of what the county commissioners would prefer?

Dustin Parks – Since it's carried over from the previous decision of the Brumbaugh Subdivision, I don't think they'd have an opinion either way to be honest. You could make a case since it's over 10 acres it should be RR but you can also make a case that says because the other lots are restricted to being SR you can keep it that way.

Matt Scherer	Paul Johnson	Vacant	Jerry White	Vacant	Matthew Finley	Brandon Newman
DNV	Aye	---	---	---	Aye	Aye

Passed 3-0

Dustin Parks – Yes. April 17th.

Chairman Scherer- That concludes our hearing for this month. Everyone is certainly welcome to stay for the rest of the meeting.

ITEM 7: Old Business: Staff advised the commission on the status of previous cases that went before the Board of County Commissioners. No other old business was discussed.

ITEM 8: New Business: Staff advised the commission on upcoming hearings, and the yearly re-organization set in April and plans for the comprehensive plan.

ITEM 9: Adjournment at 08:13 PM

Action: Vice Chair Johnson made a motion to adjourn. Commissioner Finley seconded the motion. Meeting adjourned at 8:10pm

Minutes taken by:



 Dustin Parks

Approved:

4-24-17

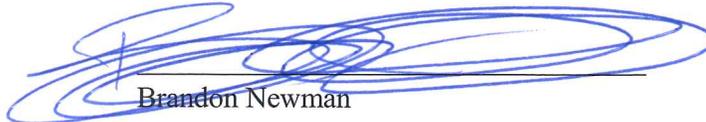
 Date

Chairman:



 Matt Scherer

Secretary:



 Brandon Newman