

Jefferson County Planning & Zoning Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of the Planning Commission Meeting of July 26th, 2021

Item 1. Call to Order.

Item 2. Approval of the Agenda

Commissioner Benyshek moved to accept the agenda as presented and Secretary Scherer seconded.

Votes were taken by Ayes and Nays as follows:

Paul Johnson Chairman	Matt Scherer Secretary	Stephen Phillips	Gale Rudolph	Tim Benyshek	Vacant	Vacant
DNV	Aye	--	Aye	Aye	--	--

Motion Passed 3-0

Item 3. Roll Call

Paul Johnson Chairman	Matt Scherer Secretary	Stephen Phillips	Gale Rudolph	Tim Benyshek	Vacant	Vacant
Present	Present	Absent	Present	Present	--	--

Item 4. Approval of the June 28th, 2021, meeting minutes

Chairman Johnson asked if there were any corrections for the minutes. He then asked for a motion to approve the minutes. Secretary Scherer moved to approve the minutes as presented and Commissioner Rudolph seconded. Chairman Johnson had a few questions about last month's minutes regarding the availability of maps of water lines from water districts or other sources, data on broadband availability in the County, and what the Planning Commissions' options are to have Road and Bridge and Health Dept staff available during the meetings to answer questions, perhaps not for the entire meeting, but just at a specific time. It was suggested that Commissioners could alternately get specific questions answered from these Departments prior to the meeting.

Votes were taken by Ayes and Nays as follows:

Paul Johnson Chairman	Matt Scherer Secretary	Stephen Phillips	Gale Rudolph	Tim Benyshek	Vacant	Vacant
DNV	Aye	--	Aye	Aye	--	--

Motion Passed 3-0

Item 5. Public Hearing

Chairman Johnson explained the commission meeting procedures to the public and opened the public hearing.

Z2021-08: A request to consider a change in zoning from Rural Residential to Suburban Residential for two parcels at the southeast corner of 39th St and K-4 Hwy. This request is brought by owners Robert and Donna Cogswell of 2683 39th St, Topeka, KS 66617.

During this time, staff asked who was here for the first case, and the applicant's agent, Jon Hickel, and two members of the public, Patrick Pierce and Brandy Wathke, identified themselves.

Chairman Johnson asked if anyone had ex parte communications with someone involved in the case or if a member has a potential conflict of interest regarding this case. No one had.

Chairman Johnson asked staff to give their report. Staff gave their report. After their report, Chairman Johnson asked the board if they had any questions for staff.

Commissioner Rudolph: So, am I in the understanding that that South property is actually going to have a driveway in that other little area? Or are they going to open up on 39th Street?

Kelly Woodward (Staff): The southern parcel would have a driveway off the subdivision road directly to the south.

Commissioner Rudolph: Okay. Thank you.

Chairman Johnson: Probably my one question would be what role does Shawnee County play in advising about this division?

Kelly Woodward (Staff): Well, we have to notify them of anything within 1000 feet of their boundary. And this is right on the boundary. And that's any jurisdiction, whether it's a city or another county, or whatever. That's a statutory requirement.

Chairman Johnson: So, if they said they were opposed to it what would have resulted?

Kelly Woodward (Staff): It'd be the same as any other public input for your consideration as one of the factors.

Chairman Johnson: Okay. So, if there are no other questions by Planning Commissioners, then I will ask the applicant if they have any further information to offer in regard to the staff report?

Applicants' agent Jon Hickel: My name is Jon Hickel. I'm speaking on behalf of Bob and Donna Cogswell. They are my father and mother-in-law. But Kelly, you summed it up very well.

Chairman Johnson: Any questions by Planning Commissioners or the applicant's representative? Seeing none at this point. So, I will ask if there is anybody on this Zoom call that is in favor of this application? Seeing none. Is there anyone on this Zoom call at this point that is opposed to this application? Seeing none. Is there anyone who has a neutral comment about this particular application?

Pat Pierce (3726 Oakwood Dr, Topeka, KS 66617): Yes, this is Pat Pierce. And my only question is, and maybe it's way too early, they stated that it will be coming off Oakwood drive. I guess my concern is if there's an idea where that driveway would be since Oakwood coming off of K4, is just about a half a block, you've got about a half a block area to cut through that tree line at this point. Obviously, you can't do it right on the corner. I don't think you would because it would create havoc coming in off the highway but that was my only question, is there an idea now where the drive might go in?

Chairman Johnson: Thank you, Mr. Pierce. I may throw that question to staff.

Kelly Woodward (Staff): Okay. The Road and Bridge department did not indicate to me exactly where it would be it just said it would require a 15 by 30, metal corrugated culvert rock and dirt provided by the landowner. So, I would recommend that you ask the homeowner if they have discussed that with Road and Bridge directly.

Chairman Johnson: Kelly, Road and Bridge would have to approve a safe entrance?

Kelly Woodward (Staff): That's correct. And I do understand his concern, you know, there should be separation distance from intersections like that. Erin is letting me know the letter says 186 feet east of K4 highway? Yeah, that's correct. I just glossed right over that. See, that's why I have Erin to help me out. 186 feet east of K4 highway.

Pat Pierce (3726 Oakwood Dr, Topeka, KS 66617): Okay, thank you.

Chairman Johnson: Thank you Mr. Pierce. Any other comments, for or against or neutral? Seeing none at this point, I'll close this portion of the public hearing and ask if the Planning Commissioners have further questions or comments about this particular case? If not, then I would, at this point, would accept a motion on this case.

Commissioner Benyshek: Paul, this is Tim here and I would like to motion to approve, sorry, I'm trying to find the application number here. Z2021-08 as presented.

Secretary Scherer: Mr. Chairman, this is Matt. I second.

Chairman Johnson: There has been a second. Any last questions or information requests by Planning Commissioners at this point?

Votes were taken by Ayes and Nays as follows:

Paul Johnson Chairman	Matt Scherer Secretary	Stephen Phillips	Gale Rudolph	Tim Benyshek	Vacant	Vacant
DNV	Aye	--	Aye	Aye	--	--

Motion passed 3-0

DP2021-03: A request to consider an amendment to the Development Plan for CU1972-06. The amendment involves a residence located at 14937 27th St, Perry, KS 66073. This request is brought by agent Michelle Kincaid for owner Alpha Christian Church, School & Ranch, Inc, 15017 27th St, Perry KS 66073.

During this time, staff asked who was here for this case. Applicant agents, Michelle Kincaid and Jeff Mulpas were on the Zoom call. No one from the public was on the call or present for the case.

Chairman Johnson asked if anyone had ex parte communications with someone involved in the case or if a member has a potential conflict of interest regarding this case. No one had.

Chairman Johnson asked staff to give their report. Staff gave their report. After their report, Chairman Johnson asked the board if they had any questions for staff.

Commissioner Rudolph: Mr. Commissioner, I do have one this is Gale. How many? How many children and how many staff? What's the count that this property actually takes care of?

Kelly Woodward (Staff): We have no information in the conditional use permit or the development plans on a count. So that's probably something you might want to ask the applicant.

Commissioner Rudolph: Thank you.

Kelly Woodward (Staff): Unless you're asking about this particular site where the residence is because they're not using it yet at this time.

Commissioner Rudolph: Well, I was curious how many with all the additional, you know, are they planning to grow? Are they outgrowing what they have? I was just kind of curious where they're at with this. Okay.

Kelly Woodward (Staff): Yeah, yeah, I think they'll be able to answer that question.

Commissioner Rudolph: Okay, thanks.

Chairman Johnson: Other questions by the Planning Commissioners?

Secretary Scherer: Mr. Chairman, this is Matt. I guess I should follow up on our condition back in 2016. Has the rural water district improved service, or were the concerns from 2016, just didn't pan out? At that time, there were people who were concerned about water pressure.

Kelly Woodward (Staff): Erin, do you have any insights on that? Well, Erin's mentioning that there's already a water meter on that site, I guess we have to keep in mind that this was already there as a residence before. So, it's now just being converted to a teacher residence at this time.

Secretary Scherer: That's a good point. Thank you.

Chairman Johnson: Kelly, my question for you would be the letter from the Road Department. A workorder has been created to upgrade the mound entrance for commercial use, as required by the conditional use permit?

Kelly Woodward (Staff): Yeah, I spoke with them about this. And I said that we don't necessarily call this a commercial use just because it's a conditional use permit. I think that in their mind they saw it as a conditional use and must be commercial. And that's not really the case here. And so, I think they spoke directly with the applicant about what would be needed because the applicant was concerned about not removing some trees and didn't really feel that it needed to be done, you know, for sufficiency of the driveway for this residence. Does that answer your question?

Chairman Johnson: Well, also, yeah. And probably more helpful for us to hear from the applicant and all this at this point too. Because what's the trigger for commercial use, as this development continues to expand at this point? So, I'll let that question lie at this point. And ask the applicant about the staff report and whatever what other information the applicant wants to add to the understanding of this case.

Applicant's agent Jeff Mulpas: Thank you very much, Chairman. My name is Jeff Mulpas, and I am one of the directors here at Alpha Christian Children's home. To give a little bit of information about what we do, we are a children's home serving just various children that are in need, we are an alternative to foster care situation would be one way of looking at it. We have two houses on sites that are currently serving children. Our maximum capacity right now is no more than 17. However, we have never really got to 17 because many of the times the children that we're serving, just simply need additional time and resources. And so that holds our numbers down. As an example. Right now, we have a total of nine kids living on campus. Like I said, we were started back in 1972. One of the things that we also do on campuses, we have our own Christian private school on site, we found that many of our kids that are coming to us are severely deficient educationally, the average is three to five years behind when they stepped foot on campus. And so, we have a teacher that lives on site that functions in a one room schoolhouse, and she helps get the kids to overcome their educational hurdles, and then begin dreaming for the future to be able to move forward from there. There are plans to be able to move forwards to be able to expand the ministry and to be able to help additional children. However, we are 100% funded by individuals and churches, and we have no government funding and no additional funding other than our own individual fundraising efforts. So, it took us nearly 40 years to go from a single house ministry to a two-house ministry. And we would expect that we might be able to open an additional house to serve children in the future, but we do not when that time would be. At this time, what we are proposing to build is a standard two-bedroom house on this new property. And that is going to

then allow our teacher to live there and not be living with the kids all the time so she can have a break away from them. It is served by its own driveway, they will not be sharing the main driveway with the rest of our campus, because it was already there. When the land came up for sale approximately a year ago, we saw it as an opportunity to go ahead and have 160 acres square roughly, that we owned, in all directions that gave us opportunities to go into the future, but also gave us a lot of opportunities to be able to teach the children that we're serving various agricultural aspects and things like that. As an example of that we have multiple children that are up at the 4H fair this week, showing goats and being involved with that aspect of kind of learning and learning some empathy and some various other skills that are there. So, our proposal is simply at this time to build a two-bedroom house. There are options that are in the conditional use to be able to put additional bedrooms to house children on the side of that. The other ideas that we put on it was, we were advised to put anything on the conditional use that we thought we might like to do. And so that's where some of the things like putting a picnic shelter down by the pond or a fishing dock or things like that came into place. So, I believe that answers several of the questions that was there. But I am definitely available to answer any questions that you all would have.

Chairman Johnson: Other questions now by Planning Commissioners for the applicant? I guess a couple of questions I would have is, is there an average length of stay for the kids that you're serving?

Applicant's agent Jeff Mulpas: Yes. It kind of varies as to why the kids came to us. So, there's been a lot of different needs that we've served over the years. Some of them there is no safe place for the children to leave. And so, they end up spending multiple years with us or may even stay with us all the way to graduation. Other children, they may just have a specific need that they're needing help with. We've had instances where a single mom was joining the military and she needed her children watched for a few years while she did that obligation or had parents that were getting through rehab or some other treatment plan and they needed help during that time. Our minimum placement is a one-year placement, and we become guardians of every child that comes here. So, they really don't cycle through very quickly. We've got a good relationship there with the judge there and hospitals.

Chairman Johnson: I noticed in some of the information that you occasionally work with the sheriff's department to handle at risk children.

Applicant's agent Jeff Mulpas: Yeah, yes, there's been a few instances where the sheriff's department was unable to get ahold of anybody from Child Services on the state level. And they needed help overnight. And so, they spoke with our local judge and with the sheriff's department, and we have assisted in our community with children under police protective custody until they could have their 72-hour hearing to set plans for them in the future. We've done that on several occasions for the for the county.

Chairman Johnson: How do how does the public find out about your services?

Applicant's agent Jeff Mulpas: Generally, through word of mouth. We are one of those places that the ruralness and our ability to get kids away from difficult situations works in our favor. But we also don't really want the wrong people to know that we are here. And so, a lot of it is through me making presentations at church or at churches or other organizations or other groups. A lot of our social workers in the area know we exist. A lot of them are various representatives that know we are there. Ron Ellis, our house rep for the state. He's a very close friend of ours and knows what's going on. And it really, it's through word of mouth locally here of how people find out about us. And then it also, then, if it's a little further away, maybe through internet searches of people looking for help for some difficult situations.

Chairman Johnson: I don't know if this is really relevant, but are you associated with any given church denomination?

Applicant's agent Jeff Mulpas: No, we're 100% nondenominational so we have friends that are Methodist, and Baptist and independent Christian churches and community churches, and Catholics and all kinds of things. We all unite under the name of Christ to be able to serve kids that are in desperate need of help.

Chairman Johnson: And this started in 1972?

Applicant's agent Jeff Mulpas: 1972. Yes.

Chairman Johnson: Any further questions by commissioners for the applicant at this point? Seeing none, I will ask if there's anyone on the Zoom call that would speak in support of this particular case? Seeing none, is there anyone on this call, Zoom call, that is, which would speak in opposition to this particular zoning case? Seeing none, is there anyone on this call that would like to make a neutral statement about this particular case? Seeing none at this point, I will close the public hearing process and ask the Planning Commissioners if they have any further questions or comments about this particular case?

Commissioner Benyshek: Mr. Chairman, this is Tim here again. Unless there's any further discussion, I would move to approve the amendment request DP2021-03 as presented.

Secretary Scherer: Mr. Chairman, this is Matt. I second.

Chairman Johnson: Any final questions or comments about DP2021-03? Seeing that the motion has been made to approve this case and seconded.

Votes were taken by Ayes and Nays as follows:

Paul Johnson Chairman	Matt Scherer Secretary	Stephen Phillips	Gale Rudolph	Tim Benyshek	Vacant	Vacant
DNV	Aye	--	Aye	Aye	--	--

Motion passed 3-0

PR2021-05 and Z2021-09: A request to consider a preliminary and final plat of the Patricia Dick Addition, a one-lot subdivision of 6.84 acres +- located at 120 S Cedar St, Perry, KS 66073. Also, a request to rezone Lot 1 from Agricultural to Suburban Residential. This request is brought by Landplan Engineering for owner Patricia Dick of the same address.

During this time, staff asked who was here for this case. Applicant’s agents, Joy Mestagh and Jess Noll and CL Maurer (surveyors from Landplan Engineering) were on the Zoom call. No one from the public was on the call or present for the case.

Chairman Johnson asked if anyone had ex parte communications with someone involved in the case or if a member has a potential conflict of interest regarding this case. No one had.

Chairman Johnson asked staff to give their report. Staff gave their report. After their report, Chairman Johnson asked the board if they had any questions for staff.

Secretary Scherer: Mr. Chairman, this is Matt, I have a couple. Kelly, what was the date of the LOMA?

Kelly Woodward (Staff): May 20, 2019.

Secretary Scherer: And this is just a, I’m getting out of date, I guess. When did we go to one and a half feet of freeboard?

Kelly Woodward (Staff): Well, I asked Steve Samuelson that same question, and he said it was in 2009 when we adopted the Subdivision Regulations.

Secretary Scherer: Okay. I don’t remember that.

Kelly Woodward (Staff): Yeah, and I think Erin had mentioned to me that it was done when we adopted the community rating system. We wanted to get more points.

Secretary Scherer: That's not statewide. That's just Jefferson County.

Kelly Woodward (Staff): Yes. Yes. And she said it was in 2012 when Bill was here.

Secretary Scherer: Okay, well, that makes me feel better because it wasn't during my time with DWR. Finally, what if the applicant doesn't meet condition number five, what action would be taken?

Kelly Woodward (Staff): Well, they can always make it a guest house. I mean, that's possible. It's not something that has to be approved because that's a permitted accessory use in that district. So, we know that's possible. We just don't know if they can get a conditional use for an accessory dwelling.

Secretary Scherer: Thank you, Mr. Chairman.

Commissioner Rudolph: I had a question if I might, Mr. Chairman. If they turn that into the guest house? How does that vacant for six months come into play?

Kelly Woodward (Staff): That is a separate floodplain regulation that exists on its own. I mean, and that requires us to know that it's vacant, which we may or may not know, in order to enforce it.

Commissioner Rudolph: Is the house occupied at this time?

Kelly Woodward (Staff): I don't know.

Commissioner Rudolph: That was all the questions that I had. Mr. Chairman.

Chairman Johnson: Kelly did the City of Perry weigh in on this request?

Kelly Woodward (Staff): No, they did not get back to us on this one. But I know the applicant met with them several times about whether they would accept a private route, I mean, a public road from the city. And they declined to do that. So, that was probably their only consideration of interest.

Chairman Johnson: Okay. So, no further questions by Planning Commissioners for staff at this point. I'll ask the applicant if they have further thoughts about staff report or the state of this case.

Applicant's Agent Joy Mestagh: This is Joy Mestagh. Can you guys hear me?

Anna Driscoll (Zoom Meeting Coordinator): It's Joy? We can't hear her.

Applicant's Agent Joy Mestagh: I'm trying to talk it says I'm unmuted.

Anna Driscoll (Zoom Meeting Coordinator): Joy, do you have access to the chat? At the bottom of your screen?

Applicant's Agent Joy Mestagh: I do. Yes, I have it up right now. You can't hear me at all? How about now? Can you hear me now?

Kelly Woodward (Staff): We just barely hear you. Or at least I barely hear you.

Anna Driscoll (Zoom Meeting Coordinator): We can't hardly hear anything at all.

Commissioner Rudolph: Was there a call-in number she could perhaps call in on the telephone?

Anna Driscoll (Zoom Meeting Coordinator): Um, let me see if I find it real quick. Oh, you know what?

Kelly Woodward (Staff): I mean, if nothing else, she could call on one of our cell phones too. And if we put it up there by Paul, maybe even, I'd have to put it up there. In the meantime, Mr. Chair, you might want to see if there's anyone else from the applicant that wants to speak while we're working with Joy.

Chairman Johnson: Okay. Any other person who's in favor of this particular application?

Applicant's Agent Joy Mestagh: Sorry about that. Okay, I'm still here. Can anybody hear me?

Commissioner Benyshek: Joy, this is Tim here. I mean, I can hear you but a boy it is like you were off in the distance about a mile away.

Applicant's Agent Joy Mestagh: 100% volume turned up so let me yell at you. To answer your question Gale on the guesthouse, yes, it is occupied right now. And then on the septic system issue, the septic system on the small house.

Applicant's Agent Joy Mestagh: Nobody can hear me this is crazy.

Commissioner Rudolph: I did hear her explain that the guest house or the smaller house the 119 is occupied. And I did hear her start to discuss the septic system.

Applicant's Agent Joy Mestagh: The system on the small house 119 South Cedar is being replaced. Originally, Mike Miller thought that he would be able to get to it by October 1, but he contacted me last week, and said that he should be able to start the first part of August.

Commissioner Rudolph: And he's going to replace it between August and October.

Applicant's Agent Joy Mestagh: And that's really all I know. I think Jess Noll would know if there's anything else.

Commissioner Rudolph: Okay, she said to speak with Jess Noll on anything else?

Jess Noll (Landplan surveyor) for Patricia Dick: Thank you Joy. Jess Noll with Landplan. I guess probably the first thing I want to say is, and Kelly covered this in her report this, this has been this way for 100 plus years. We really haven't hurt the situation any. She's just trying to deal with something that was here. Whether we deal with it, it's a six-acre tract or 120-acre tract, at the end of the day, we're still left with the same issues. So that's pretty much where I'm at with that. The Union Pacific access. We contacted Union Pacific real estate, and they do not make those perpetual or running with a certain piece of ground. They are made to, well, they're designed and crafted for the individual owners, not the ground. So, whoever ends up with this, when it's done will have to have that crossing agreement in their name.

Chairman Johnson: Any further comments?

Commissioner Benyshek: Paul, I guess I'll speak up here real quick to just reiterate so the members can understand what Joy was communicating there with us. I believe the south residence is occupied. Mike Miller out of Oskaloosa has, you know basically agreed to replace the septic system on it. He is going to be able to come out on beginning of August and didn't look to maybe have it completed until October potentially on there. So just want to make sure everyone heard that clear on there.

Jess Noll (Landplan surveyor) for Patricia Dick: Kelly, correct me here. But wasn't the guest house septic was the bad septic not the main house. So, the Northeast?

Kelly Woodward (Staff): That's what I thought, it was the small one, but I think they said on the big one they couldn't find the laterals due to the depth of the laterals so they're not really sure about the condition of the laterals.

Anna Driscoll (Zoom Meeting Coordinator): Joy, I guess maybe one of you guys can hear her response to this, but if she'd like to call in, she can call into Erin's office and be put on speakerphone. Does she want that number?

Kelly Woodward (Staff): Joy, would you like Erin's office number?

Chairman Johnson: So, what's Plan B?

Kelly Woodward (Staff): Hey, Joy can you try that phone call again? Erin, did you get it, or I didn't pick it up.

Applicant's Agent Joy Mestagh: Well, we'll just deal with the echo for a minute. This property has two addresses, 120 S Cedar and 119 S Cedar.....the rest was inaudible)

Chairman Johnson: Jess, so are we talking about changing the ownership of this property?

Jess Noll (Landplan surveyor) for Patricia Dick: That is the intent of what the owner currently wants to do is to be able to sell this piece of property. She does not want to retain it.

Chairman Johnson: And they want to sell it in a fashion to have two buildable lots.

Jess Noll (Landplan surveyor) for Patricia Dick: We have it presented as one lot 6.84 acres.

Chairman Johnson: And where does the guest house fit into that?

Jess Noll (Landplan surveyor) for Patricia Dick: That is in the northeast corner.

Chairman Johnson: So, it's one buildable lot with a guest house in the corner.

Jess Noll (Landplan surveyor) for Patricia Dick: Yes, that's the way it's presented currently.

Chairman Johnson: And you're saying that as far as the Union Pacific is concerned, that there's no negotiations with them until the new owners take hold.

Jess Noll (Landplan surveyor) for Patricia Dick: It takes anywhere from six to eight, possibly 10 months to get a private crossing agreement with Union Pacific. So, when Patricia and her late husband Clifford cut this 6.84 acres out, the crossing agreement at that time was with the Hupes, which had owned the ground for I don't know how many years, but it was a, it was a great deal of consecutive years that was in the family, the Hupe family. So, Patricia does not currently have a crossing agreement in her name. So that would have to be a note on the face of the plat that whoever ends up buying this has to take care of their own crossing agreement with Union Pacific. Now, Union Pacific did not say that they would deny a crossing agreement, they're not going to pull their crossing out of there. It's been there for, I don't know, probably 80 to 100 years.

Chairman Johnson: So, what's the parameters of being able to agree on a crossing agreement?

Jess Noll (Landplan surveyor) for Patricia Dick: It involves the federal government and the railroad. And I'm sure it's a lot of red tape. You'd have to deal with Union Pacific real estate department more than likely.

Chairman Johnson: So, (.....inaudible)

CL Maurer (Landplan surveyor) for Patricia Dick: The crossings are already built. The crossing has been there for probably 70 or 80 years? There's no change to that crossing location.

Chairman Johnson: But it has to be put into the name of whoever the new owner might be?

Jess Noll (Landplan surveyor) for Patricia Dick: Yes, you're correct. Union Pacific would require that. Currently, they're honoring the "in place" crossing agreement that has run with that piece of ground for 100 plus years with the Hupe family.

Chairman Johnson: So, would the county be involved with issuing any building permits for this parcel?

Jess Noll (Landplan surveyor) for Patricia Dick: To my knowledge at this time, the client doesn't intend on building anything or adding on.

Chairman Johnson: So, you're talking about the existing structure, maybe updating the wastewater system?

Jess Noll (Landplan surveyor) for Patricia Dick: Yes.

Chairman Johnson: And do you need a building, is the guest house now built?

Jess Noll (Landplan surveyor) for Patricia Dick: Yes, it's in existence. If you look on the preliminary plat it says existing house existing garage in northeast corner, that's the guest house and then existing house and existing garage, kind of the mid left-hand side of the plat, that is the main house and garage.

Kelly Woodward (Staff): And Mr. Chair just to clarify if that is turned into a guest house, we would need to do an after the fact permit for that guest house with those stated limitations on the permit.

Chairman Johnson: Questions by Planning Commissioners.

Secretary Scherer: Mr. Chairman, this is Matt, I have a question for Mr. Noll. Not meaning to try to outguess you or anything but is there some reason that you did not go as a two-lot arrangement here with each house on a separate lot?

Jess Noll (Landplan surveyor) for Patricia Dick: If we had done a two-lot arrangement Matt, I really think we would have had to have a cross access easement across lot one where the house is in the northeast corner to be able to get to the main house. So, we would have had an easement on top of an easement.

Secretary Scherer: Yeah, on the other hand, it might be easier to dispose of two different homes on two different lots. And that's certainly you and your clients' decisions.

Jess Noll (Landplan surveyor) for Patricia Dick: At this point in time, I mean, we're open to suggestions but at this point in time, I believe the client would just as soon sell it in one parcel as an accessory dwelling, or a guest house? I guess, not an accessory dwelling.

Secretary Scherer: Understand, I'm kind of looking at our workload, we'll probably get another subdivision request here.

Jess Noll (Landplan surveyor) for Patricia Dick: You're trying to kill two birds with one stone? Absolutely. I mean, it's not completely out of the realm of possibility. Let's put it that way.

Chairman Johnson: Any other further questions by Planning Commissioners to this point? Do we have anybody on this Zoom call that is...

Kelly Woodward (Staff): Mr. Chair, I think Tim did have a question.

Commissioner Benyshek: I'm sorry. I'm not trying to backtrack here, delay this anymore. I couldn't remember in the presentation, was it specified that this one lot, basically all the buildings and structures? Is it in the floodplain? Or is it not? I can't remember on there. I know the map we have here shows it is, but I couldn't remember specifically, if he's got the address of those two properties if it was or not.

Kelly Woodward (Staff): So, the entire parcel is in the floodway except for the portion that it has that adopted LOMA or Letter of Map Amendment that shows it not in the floodplain at all.

Commissioner Benyshek: That's fine. I just wanted to clarify on that. I got a little sidetracked on there. So that's all I have.

Chairman Johnson: Okay. Thanks, Tim. So, is there anyone on this call that is in support of this particular application? Or case? Seeing none, is there anyone on this call that is in opposition to this particular zoning planning case? Seeing none

at this point, then I'll ask if there's anyone on this call that has a neutral statement about this particular zoning case. So, at this point, I'll close the public hearing portion of this case, and ask if the Planning Commissioners have other questions given this particular case.

Secretary Scherer: Mr. Chairman, this is Matt. I have a question for Kelly. Is there some particular reason we didn't put a time limit on condition number five?

Kelly Woodward (Staff): Obtaining a conditional use permit? Yes. I didn't even think of it. Honestly. That's not to say it's not a good idea, I think that could be a good idea.

Secretary Scherer: So.....inaudible.....thank you.

Kelly Woodward (Staff): But I would just say that until they do one of those two things, I think we would still consider them non-compliant.

Chairman Johnson: We're still missing Gale.

Anna Driscoll (Zoom Meeting Coordinator): Gale is trying to get back in right now.

Erin George (Staff): Joy is still on, she's still on speaker on mine. And she's trying to get back in there, Anna.

Anna Driscoll (Zoom Meeting Coordinator): Okay, I just saw that she just came back on, but oh, and then there is Gale. Okay, good.

Erin George (Staff): Joy. Did you have anything to say?

Applicant's Agent Joy Mestagh: No, I didn't hear that last question.

Erin George (Staff): She wanted you guys to repeat that last question from Matt, I think.

Kelly Woodward (Staff): The question was whether there was a time limit recommended for them to obtain either that conditional use permit, or to convert that to an accessory guesthouse.

Erin George (Staff): And the answer was?

Kelly Woodward (Staff): Well, he asked me if I had thought, or anyway, I had not thought about a time limit. But I believe Erin, that we would still consider them non-compliant until one of those activities occurred. Correct? And so, I'm not sure how to implement a time limit. Like, are you suggesting maybe within a couple months of getting their County Commission approval that they would apply for that? I'm not sure.

Secretary Scherer: I was going to suggest a year.

Erin George (Staff): Say that again Joy? Or you guys could do the building permit for the guesthouse, right? You have to do an after the fact permit to turn it into a guest house.

Secretary Scherer: Mr. Chairman, if I might ask Kelly, what are the consequences in the event of a sale? If neither one of those have occurred? Would it? Would it make the sale impossible? Or could she sell the property with that condition?

Kelly Woodward (Staff): She could sell it but when we have the appraiser or somebody called asking about it, we would be telling them the property was non-compliant. Which is what they're trying to avoid, right now.

Jess Noll (Landplan surveyor) for Patricia Dick: Can I ask a question, Mr. Chair. Is there anything that says that we can't apply for a conditional use permit at the same time that we're doing this platting, we do it simultaneously? And we take care of this. And so, when it's all done, it's wrapped up in a pretty package.

Chairman Johnson: I'll turn that over to Kelly.

Kelly Woodward (Staff): So, your application right now is for the rezoning and preliminary and final plat. So, you really don't have any other steps in this process. But you could apply tomorrow for a conditional use permit. And that would be on the next deadline, which would be August 19th for the September meeting.

Jess Noll (Landplan surveyor) for Patricia Dick: So right now, we have the preliminary and final plat, but no action has been taken on it, so the conditional use permit would then be filed on the current 6.84 acres for the use of that other building as an accessory structure. Am I correct?

Kelly Woodward (Staff): Right. Except technically, that 6.84 acres doesn't exist until this, I mean, it isn't compliant until this is approved.

Jess Noll (Landplan surveyor) for Patricia Dick: Exactly, it's not compliant. But it exists because it was conveyed. But the only issue with the current 6.84 acres is currently non-compliant. It is a parcel in its own standing entity.

Kelly Woodward (Staff): But we can't just add it to this application without having an application.

Jess Noll (Landplan surveyor) for Patricia Dick: I was just, I know they want to facilitate a sale, and this has been a headache for them, and we're trying to get them to where they have something that is compliant. That is more, I don't know, sellable, more appealing to a buyer than a non-compliant red tape mess.

Kelly Woodward (Staff): Well, I guess the quickest thing to do would be for them to apply for that accessory guest house right away. And then you could still apply to convert it to the conditional use, but we have to do public notice and a public hearing on any conditional use permit for an accessory dwelling.

Jess Noll (Landplan surveyor) for Patricia Dick: So, the question therein lies for the client to make the decision whether we do it now or pass it on to the potential buyer. My fear is a potential buyer is not going to understand what needs to be done. And it's either not going to get done, or it's not going to get done correctly.

Kelly Woodward (Staff): Well, as it stands now, that's a recommended condition of approval for the rezoning and the plat.

Secretary Scherer: Mr. Chairman, if I understand this correctly, this is Matt. If we take, well if the County Commission approves this next month, it will be non-compliant until such time as the applicant has received a building permit for a guest house or approved conditional use permit for a second structure. I guess I should have asked Kelly that.

Kelly Woodward (Staff): And met all the other conditions of approval if you recommend other ones.

Chairman Johnson: Kelly, what was the word that you used, it wasn't a floodplain, it was a flood...?

Kelly Woodward (Staff): The floodway? The floodway is the actively flowing portion of the Special Flood Hazard Area during those events, those flood events.

Chairman Johnson: So, what are the limitations for upgrading or improving these structures in a floodway?

Kelly Woodward (Staff): Well, the one that's in the floodway, which is the one, the small house at 119 Cedar, has been there for a long time. And so, it would depend on how much improvements they are trying to do. So, if it triggered a substantial improvement, they would have to meet all current floodplain regulations.

Chairman Johnson: So, is that elevating the house then?

Kelly Woodward (Staff): Yeah, that would be, well, actually, since it's in the floodway, I don't know that the federal government would let it be rebuilt – if it's damaged, and the cost of repair is more than 50% of that pre damaged market

value, it shall not be reconstructed at all. If it's improved, and it's improved at equal or greater than the 50% of market value, that's a substantial improvement and then they have to elevate it and do other flood design-related improvements. But then when it's in the floodway that's when you get into that whole no rise certificate where anything you do can't increase it more than it is right now. Cannot increase flood levels of the base flood.

Chairman Johnson: Okay, further questions by Planning Commissioners at this point? Do all Planning Commissioners understand the technicalities of this case?

Commissioner Benyshek: Mr. Chairman, this is Tim and I, this isn't necessarily a recommendation, but just I guess thoughts from the way I see this application is presented right now, unless we, as we've indicated multiple times, address probably a very specific timeline on recommendation number five there for them to get this building and conditional use permit in place, sounds to me like we're just potentially, you know, recommending approval for a non-compliant property to go down the road here. And then if they're able to sell the property, the new owner is going to have to re-address this, you know, all over again. So, I guess the way I see it is, is we either approve this with the condition with a pretty short timeline for them to get a conditional use permit in for review, or table the case until they can come back to the September meeting with a conditional use permit to accompany a new application for this property. So that's, that's my thoughts on it. I don't know if any of the other chair people have any thoughts on this.

Jess Noll (Landplan surveyor) for Patricia Dick: Mr. Chairman, if I may, I have a question for Kelly.

Chairman Johnson: I think the public portion right now is closed. So, Tim do you want to make a specific motion?

Secretary Scherer: Mr. Chairman, this is Matt. I guess I'd like to know if the applicant has a preference among Tim's options there.

Chairman Johnson: So, I'll open it up to at least get an answer to that particular question.

Jess Noll (Landplan surveyor) for Patricia Dick: I'm sorry, Matt, what was the question?

Secretary Scherer: My question was just whether or not the applicant has a preference between the two options that Tim suggested, either tabling, or just going on I guess was the first option.

Jess Noll (Landplan surveyor) for Patricia Dick: Well, and my question for Mr. Chair just a second ago, and I didn't mean to intervene in the other portion of it. Kelly, how long will the conditional use permit process take if we were to start tomorrow?

Kelly Woodward (Staff): Well, I mean, it takes nine weeks from the next deadline. And the next deadline is August 15th or August 19th.

Jess Noll (Landplan surveyor) for Patricia Dick: And then that's a conditional use permit if they wanted to use the house as a second, as an accessory dwelling or a guest house.

Kelly Woodward (Staff): Accessory dwelling. We can only permit accessory dwellings as a conditional use, but we allow guest houses as a permitted accessory use in that district.

Jess Noll (Landplan surveyor) for Patricia Dick: So right now, the way I see this, one of two options. We either do a conditional use permit on the building in the corner, or we make it a two-lot subdivision and we keep this train rolling.

Secretary Scherer: I believe there's a third that you can get a building permit as a guest house?

Jess Noll (Landplan surveyor) for Patricia Dick: And not do the conditional use permit or a second lot?

Secretary Scherer: I want Kelly to verify that, but I think that's correct.

Kelly Woodward (Staff): Right. That's right.

Jess Noll (Landplan surveyor) for Patricia Dick: The building permit would be the fastest of the three routes, correct?

Kelly Woodward (Staff): Oh, very much so.

Jess Noll (Landplan surveyor) for Patricia Dick: I know we can't hear Joy and I don't really want to speak, we are working on behalf of the applicant, in my opinion, I think the building permit for the house in the corner would be the proper way to move forward so we don't waste anybody else's time.

Kelly Woodward (Staff): They could, whoever the new owner is, could always come back and apply for a conditional use permit for that to turn into an accessory dwelling later.

Jess Noll (Landplan surveyor) for Patricia Dick: After the fact.

Kelly Woodward (Staff): Well, I mean, it'd be a guest house until anything else was approved.

Jess Noll (Landplan surveyor) for Patricia Dick: And that would be the proper way to put it, to put the onus on the new owner, and have it taken care of before it was conveyed. The new owner would then have that option to be able to do that at a later date?

Chairman Johnson: Okay. We are going to come to some conclusion here. Does any of the Planning Commissioners have a specific motion they want to make in this case?

Secretary Scherer: Mr. Chairman, I'll make a motion. I would like to revise the recommended motion, however. And I realize that all of you are tired of me complaining about making conditions that don't apply to the applicant and that's what I'm trying to avoid here. So, I recommend that, excuse me, I move that we recommend to the County Commissioners approval of Z2021-09 and PR2021-05, based upon the findings of staff, with the following conditions: my condition one is Kelly's condition two, my condition two is Kelly's condition three, and my condition three is Kelly's condition five, with the addition of, well never mind, I changed my mind. And then I would like to continue the motion to say we recommend to the County Commissioners that: and insert Kelly's condition one and her condition four in those places because we're making a recommendation to the County Commission rather than a condition on the permit that's to be granted to the landowner. So, it says all the same thing it's just organized differently. But there's only three conditions on the permit itself.

Kelly Woodward (Staff): And Matt, was that condition number four as presented this evening with the clarifications?

Secretary Scherer: Definitely as presented this evening because I believe that the plat is actually slightly incorrect. Which is what the previous one referred to.

Chairman Johnson: Do we have a second to Matt's motion?

Commissioner Rudolph: I'm sorry, Mr. Chairman, I didn't understand you. Could you repeat that?

Chairman Johnson: Well, maybe I can ask Matt to simplify it to give us the essence of what his motion was?

Secretary Scherer: Mr. Chairman, Gale may just not have heard you? I hope. The chair asked for a second. Was what he asked for.

Chairman Johnson: There was a request at this point was a clarification of the motion that you've made Matt.

Secretary Scherer: Kelly, can you put up your recommended motion on the screen? Okay, my motion is recommending to the County Commission to approve the two applications with Kelly's condition number two being my condition number one, Kelly's condition three being my condition number two, and Kelly's condition five being my condition number three.

And then separately a recommendation to the County Commissioners then is the essence of her condition one and her condition four. Because those two are actually directed towards the County Commissioners asking them to take a particular action not making a requirement of the applicant.

Kelly Woodward (Staff): So, Matt, condition number four is about the rule exceptions on the plat. Now the subdivision regulations state that rule exceptions have to be presented with the plat. Because I'm just not quite following what you want us to do with number one, and number four, are they conditions of the plat? Or?

Secretary Scherer: They were intended to be recommendations to the County Commission. The plat actually has those exceptions on it except I don't believe the plat is exactly correct because it cites the wrong standards. If you agree with me, that's what my note was this afternoon.

Kelly Woodward (Staff): Well, we could have a condition that they would amend those rule exceptions on the plat, you know, to show the correct standards as supplied by staff or whatever.

Secretary Scherer: That's certainly acceptable to me. But again, my point is that those are not actually requirements made of the applicant. They are exceptions being requested of the County Commission, so they don't belong in conditions to a permit. We don't have any business giving the County Commissioners conditions. And that's my concern with your condition number one, as well, that it's addressed to the County Commission.

Kelly Woodward (Staff): But you're actually stating that you would recommend that the County Commission implement that as a condition of approval?

Secretary Scherer: No, I'm just, that they would have to approve the exceptions.

Kelly Woodward (Staff): Okay and then in the other case, approve the private travel easement.

Secretary Scherer: That's correct. Yes. Which is sort of number A or letter A and number four as well. I'm sorry it's not. It is on Mr. Noll's I believe.

Kelly Woodward (Staff): Oh, on the plat? Yeah.

Secretary Scherer: Yeah. I apologize for the all the confusion.

Kelly Woodward (Staff): I think I understand you now. Thank you.

Secretary Scherer: I guess in summary it is pretty much the same thing that Kelly's recommended it's just ordered in a different fashion.

Chairman Johnson: Does that answer your question Gale?

Commissioner Rudolph: It does. Thank you. I second. I so move we second on that.

Chairman Johnson: Any further questions or comments by Commission members at this point?

Votes were taken by Ayes and Nays as follows:

Paul Johnson Chairman	Matt Scherer Secretary	Stephen Phillips	Gale Rudolph	Tim Benyshek	Vacant	Vacant
DNV	Aye	--	Aye	Aye	--	--

Motion passed 3-0

Item 6. Public Comment: There was none.

Item 7. Old business:

Kelly Woodward (Staff): Okay. So, we will have three cases also in August. And then I would like to ask if you would still like to take a little bit of time to talk about the comprehensive plan. And my suggestion was that maybe we would discuss, I could go through the plan and report back on the progress made on the recommendations of the current plan. In other words, where do we stand on the things that were recommended previously. What's been accomplished? What's ongoing? What's still to be done? That kind of thing. And then you could also discuss what you would like to talk about in a joint meeting with the County Commission.

Chairman Johnson: So, this would be an item for the August meeting, you're saying?

Kelly Woodward (Staff): Correct.

Chairman Johnson: I guess the three items that come to my mind, first of all, I don't want to drop the ball, I want to set up a definitive date with the County Commissioners, to have a second meeting. And I think the homework for all of us is to go back to this comparison report, that compatibility report that Kelly wrote for us, and talk through what our needs are. And then, I think for each of this, one is I think we need to, all of us need to partake in discussion with county commissioners about the need for a comprehensive plan in Jefferson County. What our thoughts are about why we need a plan and what we hope a plan will do. Secondly, I think we need to lay out a somewhat specific timeline. I know it can vary, but I think we need to give ourselves some finish dates on how long this process is going to take, 18 months, two years, you know, how that's going to be accomplished. And the third item is our thoughts about what's the best way to get public input in Jefferson County, for discussion, and with our residents, and how best to get public input. So, it's what's our, why we need a comprehensive plan, you know, why we think that's, you know, something we, you know, we need, secondly, a timeline. How long it's going to take, you know, and thirdly, what's our best options from a website to, you know, certain focus groups, certain interest groups, how do we best get public input, Gale?

Commissioner Rudolph: So, I was wondering, and this is for Kelly, did you ever find any communication between the Corps of Engineers and Perry Lake on how we can possibly, I don't know if there's any way we can work with them on advertising or things allowed? Or? I mean, I just remember I was asking if we had any kind of communication, anything set up with them.

Kelly Woodward (Staff): I kind of thought I remembered you asking for us to find example of another plan that was a similar partnership. But you would like to know how we can work with them in this comp plan process.

Commissioner Rudolph: Yeah, because I mean, the Perry Lake seems to be one of our bigger assets. And if we are going to be concentrating on setting up ideas for this, why we would need it. I'm just curious if there's anything comparable in that aspect. And how's the web coming along? Has that been updated since we had last covered that on making it more publicly accessible?

Kelly Woodward (Staff): Are you talking about a project web page? Yeah, yeah, no, we haven't made that. That was something I thought we'd probably need some help with. So, we haven't gotten there yet. And I don't really know what to put on there yet until we kind of work it out with the commission and what they want to do.

Chairman Johnson: Kelly is there a timeline for when the Army Corps is gonna adopt a new, their own plan for Perry Lake?

Kelly Woodward (Staff): It was going to be a nine-month process for them, but they were going to come back to us when they actually had a draft plan and we have not received anything yet on that. But when they get the draft plan out is when they'll expect comments on their plan, which would be also a good time for us to talk about some of these things Gale suggested with them. But we can reach out to them before then, too. We've been really swamped to be honest with you.

Commissioner Rudolph: Hopefully, I'll be able to also attend. Mondays are really difficult, I'm, I think that I'll have better luck. I know this sounds funny, but I work for the VA and I man the phones on Mondays, so unless I have some backup, it's kind of difficult, but I will do my best to make sure I've got somebody as my backup.

Kelly Woodward (Staff): Okay.

Chairman Johnson: Other comments?

Secretary Scherer: I hate to bring this up since Kelly just mentioned how swamped she was. But I think when we were first discussing this, I suggested going to Marion County to see what their plan looked like and it didn't impress you very much. But there are 17 Federal Reservoirs in the state, each of them is in a county, so there might be some other counties that have done this and wouldn't have to reinvent the wheel completely if we looked at some of those other counties. Miami might be a place to start.

Kelly Woodward (Staff): And they are in the middle of a comp plan update right now. So, they are a wealth of information and experience.

Secretary Scherer: Their reservoir is not as big a deal as Perry is to us, but they do have one.

Kelly Woodward (Staff): Yeah, if you had suggestions about other ones, because I'm probably not aware of those.

Secretary Scherer: I'll just look at my map and see where the Federal Reservoirsinaudible... and send you the list.

Kelly Woodward (Staff): Okay, that'd be great.

General discussion ensued about the cases from the June Planning Commission meeting that had gone to the County Commission in July. Discussion was held about being able to meet in person again and having hybrid meetings.

Item 8. New Business: None

Commissioner Benyshek moved to adjourn the meeting. Commissioner Rudolph seconded.

Item 9. Adjournment – 9:15 PM


Minutes taken by:


Erin George

Approved:


8-23-2021
Date

Chairman:



Paul Johnson

Secretary:



Matt Scherer III