

OFFICIAL

UNOFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

**Minutes of the Planning Commission
Meeting of November 27th, 2023**

Item 1. Call to Order

Item 2. Approval of the Agenda

Commissioner Hazen moved to accept the agenda as presented and Commissioner Rudolph seconded.

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Gale Rudolph
DNV	---	Aye	Aye	---	Aye	Aye

Motion Passed 4-0

Item 3. Roll Call

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Gale Rudolph
PRESENT	ABSENT	PRESENT	PRESENT	ABSENT	PRESENT	PRESENT

Item 4. Approval of the October 27th, 2023, meeting minutes.

Secretary Asher moved to approve the minutes and Commissioner Phillips seconded.

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Gale Rudolph
DNV	---	Aye	Aye	---	Aye	Aye

Motion Passed 4-0

Item 5. Public Hearing

Chairman Benyshek explained the Commission meeting procedures to the public and opened the public hearing. Chairman Benyshek asked if any Commissioners currently have any ex parte communication with the applicants or any conflict of interest towards this case that would exclude them from giving a vote this evening. There were none.

PR2023-12: A request to consider the preliminary plat of the Spirit of Kansas subdivision, a seven-lot subdivision located at the SE corner of 46th St and K237 Hwy, where the smallest lot is 4.44 acres. This request is brought by owners Jo Eis Barton & Arthur Barton, Jr. located at 7627 46th St, Ozawkie, KS, 66070.

During this time, staff asked who was here for the first case. The applicants, Jo Eis Barton & Arthur Barton, Jr. were present. Jane Dix and Nelson Freerksen were also present. Norbert & Jeanette Otter sent written comment.

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

Chairman Benyshek: Alright, thank you, Dustin. Maybe I'm jumping the gun here a little bit, Dustin. But I seen in the packet here, we also received a letter here in regards to maybe the ingress and egress on part of a property there.

Dustin Parks (Staff): Correct. So, I'm going to briefly touch on that. So, there was a request by a property owner to reinstate an old ingress egress agreement that was between the applicants and an individual from the public. However, also attached to your packet is the court decision that specified that that easement does not exist anymore and shall not exist. So, the members of the public states in their letter they do not have a problem with it, so long as the ingress egress be restored, but that ingress egress is kind of entirely off the table by court decision. And that's why we've included that court decision.

Chairman Benyshek: And that's what I was getting at, as I saw the judgment in the packet there. So, I didn't know if that's something we could even, I guess, really take into consideration.

Dustin Parks (Staff): So, no. Case in point, I highlighted some specific information in the packet and the very last one is kind of the big one, that the defendants are restrained and enjoined from forever setting up or asserting any right, title, or interest in said easement. And so basically, that says that we can't even really entertain the request because it's a court ordered vacation, that we don't have the authority to overturn. So, it's not even on the table to restore that easement. It's not part of the subdivision request. It's not listed in subdivision because the court vacated that easement. It doesn't exist anymore by court order.

Chairman Benyshek: Okay, thank you. So, at this time are there any questions by members of the Commission or staff at this time in addition to what's already been stated in either the report or the short update on the question I had there? So, I'm gonna take that as a no question, so to keep it moving along here. So, the next portion of the hearing procedures here is the section where we have applicant presentation and public comment here. So, if any of the applicants or applicant representatives would like to make a statement or presentation about the hearing here, please, by all means here, I think they're going to tilt the camera toward you, and you'll be ready to go.

Jo Eis Barton – Applicant: I'm Joe Eis Barton and my father Harold Eis bought this property in the sixties. His intent was to make it a housing development because it was so close to the lake. And he was going to do all three and five acre lots. Norb Otter was the first to buy a lot. And he's the one that wants the egress and ingress. He was granted that because his piece was landlocked at the time, which is no longer. Shortly after, my dad sold the first lot, he died, so he never completed that. I promised my dad I would keep the farm in the family and honor his wishes to my best ability. I kept the farm and it's ready for the next generation. So, I kept my promise. I want to honor Dad by giving him his subdivision along the highway because that's not a part of what he was gonna keep for our family. And he was gonna subdivide it and make a subdivision. My dad raced boats in the 60s and 70s and he built one of his race boats and he named her Spirit of Kansas. That's why it's important to me to have the subdivision named Spirit of Kansas. Sorry I'm being a crybaby. So, I really hope that you allow this to happen.

Chairman Benyshek: Okay, thank you. At this time, if there is anyone who wishes to speak in favor of the application, either on the Zoom call or in attendance in the audience here now would be time to give a short word or presentation. Okay, doesn't look like we have anybody at this time for that side of the coin. Are there any members of the public or on the Zoom call at this time who would like to speak in opposition to the application? Now, it'd be time to be heard or make a brief presentation. Take the podium there.

Jane Dix – 6728 50th St.: Well, I'm Jane Dix. And I own a house in that area right there off 46th Street. So, so I own it. And it's a rental, but my family lives in it now. So, I was just concerned that eventually, when everything got built and things was going along, if it happens, or whatever, that it would devalue my property, and raise the taxes, because it'd be a new housing development. And that's what I was concerned about. And also, well the traffic, it's a gravel road, and that's

not the best road...inaudible.... 46th Street on that road. It is a crappy road. And that was about it. Did you have any more questions, Nelson? That's my husband.

Nelson Freerksen – 6725 50th St.: The small lot that is down there just across the road. Is the part on the south side of the road, is that three acres or more, which is required by the county to have a house?

Chairman Benyshek: I can tell you here real quick. Let me scroll here. If you guys couldn't hear on Zoom, the question was in question to the lot size on the smaller acreages there, but I apologize, not sure which lot you're that is the one with the bridges across project. But I can tell you, the smaller lots here, lot three, four, five, six, and seven, are the smallest. 6.7, 6.7, five acres, 4.4 and five acres.

Nelson Freerksen – 6725 50th St.: That's the 4.4 acres?

Dustin Parks (Staff): Yes, that one does have at least the two acres required by the Health Department in order to build a residence on it. The area across, north of 46th Street is less than half an acre total. So, it would be very close to having about four acres still on the southern side there.

Nelson Freerksen – 6725 50th St.: So, you're saying that on the south side of the road, there would be an excess of three acres?

Dustin Parks (Staff): Yes, it would be closer to four.

Chairman Benyshek: Okay. Any further questions of the Commissioners or staff at this time?

Jane Dix – 6728 50th St.: No. Just I don't want my taxes to go up. I don't want my house to go down.

Chairman Benyshek: I understand. So duly considered, thank you. And I'll just call it one more time if there's, I think we covered the members of the audience, but just making sure there's nobody on Zoom at this time who would like to speak in opposition to the application? Now would be your time to be heard. Otherwise, we will be moving down the list here.

Jane Dix – 6728 50th St.: Can I ask a question?

Chairman Benyshek: As long as it's directed towards us and not the applicant.

Jane Dix – 6728 50th St.: No. Was there any other comments from the neighbors besides Norb Otter?

Chairman Benyshek: To my knowledge, no. Unless Dustin, I don't believe there was any other comments in the packet?

Dustin Parks (Staff): There was not. We didn't receive any phone calls regarding it that had any comments or opinions on the case. And we didn't receive anything in writing other than from Mr. Otter.

Nelson Freerksen – 6725 50th St.: Can I get a copy of that packet he's referring to?

Chairman Benyshek: The zoning packet that we have here in front of us. I honestly don't know if we can hand that out.

Dustin Parks (Staff): You can find it on our website under the Jefferson County agendas then you can print it out there.

Jane Dix – 6728 50th St.: That'd be the same detail that y'all have?

Dustin Parks (Staff): It's the exact same packet that we submit to the Planning Commission. Yes.

Chairman Benyshek: Okay. So, moving on to the next portion of the public hearing here. If you so choose, if the applicant would like to make a rebuttal statement? You can so choose, and if you so choose not to, that's perfectly fine too.

Jo Eis Barton – Applicant: I don't really have any kind of comments. I don't understand how a property would be devalued.

Chairman Benyshek: So, at this point in time, I'm going to go ahead and close the public comment portion of the case here. I guess before we would move into committee action here. I just ask one more time if any members of the Commission have any questions for staff or potentially the applicants at this point in time?

Commissioner Hazen: No.

Chairman Benyshek: Okay. Greg's a no, Gale is shaking her head no. Tiffany. Steve, any questions? Okay. Well, very good. So now comes the point in time where we need to take action on the matter here. So, I would be looking to my fellow members here for a motion.

Secretary Asher: I will make a motion to... sorry, looking for the case number. If somebody else wants to take over, you can. Dustin, do we need to make a motion to table the rezoning?

Dustin Parks (Staff): There we go. Yes, it would be preferable to make a motion to table the rezoning to occur during the final plat review. And then that way, it's not automatically kicked to the next month. It actually has a specific case attached to it.

Secretary Asher: Okay, sorry, my internet's slow.

Dustin Parks (Staff): The case number is PR2023-12.

Chairman Benyshek: The zoning case is the Z2023-12.

Secretary Asher: So, I make a motion to table the request for the rezoning case Z2023-12.

Chairman Benyshek: Okay. It's currently been motioned by Tiffany to table Z2023-12. Do I have a second for that matter, or motion, sorry. Gale seconded. Before we move to a vote. I just asked if there's any further discussion Okay, given given plenty of time there so with no further discussion, I will go ahead and call for a vote. Once again. It's been motioned and seconded to table the zoning case referring to Z2023-12 until the final plat for this proposal is reviewed.

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Gale Rudolph
DNV	---	Aye	Aye	---	Aye	Aye

Motion Passed 4-0

Chairman Benyshek: And so as far as the preliminary plat which is PR2023-12. I would be looking to the members of the Commission to seek action on the preliminary plat case at this time.

Secretary Asher: I make a motion to approve the preliminary plat application as proposed for PR2023-12.

Chairman Benyshek: Sorry, I heard you there. If I heard you correctly, you're recommending or motioning for approval of PR2023-12 as staff has recommended?

Secretary Asher: Yes.

Chairman Benyshek: Okay. All right. So that has been motioned by Tiffany. At this point in time, is there a second?

Commissioner Phillips: Second.

Chairman Benyshek: I didn't hear you, Gale. I'm sorry. Well, Steve had a second, but go ahead.

Commissioner Rudolph: I wasn't sure if that needed to be voiced with the conditions recommended by staff for the road study. And the defining which one was going to be suburban rural.

Dustin Parks (Staff): The entrance locations was the other condition.

Chairman Benyshek: Oh, okay. I'm sorry, Steve.

Commissioner Phillips: No, that's fine.

Chairman Benyshek: Any further discussion or questions before we would move to a vote? Okay.

Dustin Parks (Staff): It might be good to clarify what the exact motion is. What I've got written down here is that Tiffany moved to approve PR2023-12 with conditions recommended by staff.

Chairman Benyshek: Correct. Okay. And I will read the recommended portion here. So before moving to vote, so staff recommends Planning Commission approval of the preliminary plat application is proposed with the condition that a traffic study be conducted regarding the potential impact of the subdivision on existing state and county road infrastructure. Staff further recommends that the Planning Commission require the applicant work with the Jefferson County Road and Bridge department to ensure proper placement of entrances along 46th Street and have those entrances reflected on the final plat when presented for review. So just so we're clear on that. So that is what has been moved and seconded. So, without further ado, and no more discussion.

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Gale Rudolph
DNV	---	Aye	Aye	---	Aye	Aye

Motion Passed 4-0

Dustin Parks (Staff): I apologize for butting in there. Since this is a preliminary hearing, I'll actually give them the information that was discussed tonight at their next meeting. And then the County Commission will decide whether or not they want to review everything officially, prior to when the Planning Commission would see the final hearing or before they see the final plat. Normally with our plats, we do the prelim and the final at the same time. It's kind of one fluid motion. But the way our subdivision regulations work is that the Planning Commission reviews the preliminary application. And then that information is presented to the County Commission, and they have the opportunity to discuss it and then discuss any potential changes. And then after they've done that or decided whether or not they want to then the applicant can apply for the final plat application. And that's what gets kicked to the County Commission for final approval.

Chairman Benyshek: All right, I was a little out of line there. Yes.

Jo Eis Barton – Applicant: The Commissioner meeting that's tomorrow?

Chairman Benyshek: No, it will not be. Well, maybe I'm wrong there Dustin? I assume it's probably not tomorrow's meeting.

Dustin Parks (Staff): No, there isn't one tomorrow that I'm aware of, they meet on Mondays. But I will give them information about this case and the vote that was taken next Monday and then they can decide if they want to hold a hearing to review it or not. And then we let the applicant know what the County Commission decided and what their next step is. And then once the applicant has met the criteria put forward in the conditions, which are the getting a traffic study done for

the section of 46th St. and 237, that would be affected by this and marking the location of the entrances on the final plat, then they can apply for that final plat. And then another letter is sent out to all the people who live within 1000 feet. And it's essentially kind of the same process as this only it's more, the final plat is more heavily reviewed in terms of the rezoning at that point. So no, no final decisions have been made other than the Planning Commission has voted to recommend approval of the preliminary plat and then essentially giving the applicant permission to move forward with proposing a final plat application.

Chairman Benyshek: Yes,

Jo Eis Barton – Applicant: How do I get a traffic study done? Who do I contact? What do I do?

Dustin Parks (Staff): You'll have to contact a private engineer. Engineering firms can do them. Sometimes KDOT has done their own traffic studies for their area, but they won't take into account potential increase in traffic by what you're proposing. So, the odds are, your best bet to start with is, to look up engineering firm and go from there.

Jo Eis Barton – Applicant: Okay. Okay, yeah, wasn't there one done when the Harbor put in theirs?

Dustin Parks (Staff): Their traffic study would reflect the increase in traffic of their proposal, yours would need to take your proposal into account.

Jo Eis Barton – Applicant: Okay.

Chairman Benyshek: Any further questions?

Norbert Otter – 7655 46th St: I don't know if it's relevant...

Dustin Parks (Staff): The public hearing portion has been closed, sir.

Chairman Benyshek: Okay, sorry about that. No, go ahead.

Jo Eis Barton – Applicant: When we were in the process of the Harbor doing their thing, I was under the impression the traffic study he did was he put a camera on his driveway and counted cars.

Chairman Benyshek: That probably is accurate. However, I think what Dustin was trying to reiterate is is when that traffic survey or study was conducted, that was in regard to their application proposed for their zoning, obviously, I'm very well aware the properties are right next door to each other. However, we can't piggyback off of another zoning case's traffic study, you would have to have a completely separate traffic study done as proposed, because part of that is going to include where the potential location for driveways are along the roadways. And they take that into account with the data that they collect for their study.

Jo Eis Barton – Applicant: So, I need to get with the road people. And we need to figure out the best placements for the driveways before I get an engineer to do a traffic study.

Chairman Benyshek: Well, whoever, Dustin feel free to chime in here, however, I'm gonna say your surveyor or whoever laid out these plats, is going to have a pretty good suggestion on where to steer, on which you know, part of the process would be better to go first, and so on and so forth there.

Dustin Parks (Staff): I would recommend going ahead and discussing it with the Road and Bridge department about where the entrances might go, but the thing is you could talk to the engineer first and let them know that you're doing that. Or you could talk to Road and Bridge first and tell them that you need to get an engineer involved at some point. So, it's kind of six in one and half dozen in the other. Because you're either going to know where the entrances are. Or you'll know where the traffic counts need to go because you'll have the engineer in place. But the important thing is to account for where the entrances are in terms of because that will determine the impact on the roads and where, so you'll want to know where those

entrances are going to go before the traffic studies are done. That's not necessarily meaning you don't want to talk to the engineer before now.

Jo Eis Barton – Applicant: Thank you.

Chairman Benyshek: So, with that being said, we do not have any other cases this evening. So, as I always like to announce to any members of the public or applicants, you are more than welcome to stay and listen to the rest of our meeting. However, if you so choose to adjourn yourselves, by all means that is perfectly fine as well, but I just wanted to put that out there for you. So, we will move on through our agenda here to item number six, which is comments from the public on items that are not on the agenda.

Item 6: COMMENTS FROM THE PUBLIC ON ITEMS THAT ARE NOT ON THE AGENDA

No public

Chairman Benyshek: So, with that being, no comments there, moving on to old business here. And it looks like a general staff report and maybe an update on the comp plan revision here.

Item 7: OLD BUSINESS, GENERAL STAFF REPORT

Dustin Parks (Staff): So old business, the County Commission approved three of the four cases that were presented to them from the last meeting, the conditional use permit application, that applicant decided to withdraw his application for the rental property. So that was not seen by the County Commission. But the other conditional use permit and three subdivisions were approved by the County Commission. It is technically old business by now. But as I said, in my email, I did put in my resignation. And what that means for the county, or the Planning Commission, is that the County Commission approved a 120 Day moratorium on acceptance of any application that would involve a public hearing. And that went into effect last week, when it was published in the paper. So, from that day, from Wednesday forward, no other applications for public hearings will be reviewed. So, they're not until the expiration of that date for until the County Commission lifts that moratorium, which they can do is should they find a replacement, and that replacement feels comfortable getting that lifted. And they did that, so that they had time to find a replacement. So that does mean that we should not have any cases in January. And any cases that are tabled in December to January would technically be tabled until probably April. Because there won't be a planning or zoning administrator available in January or February to review those both for continuation and for the County Commission. So just a heads up on that. And as far as the comp plan goes, the consultants, we're supposed to have a Zoom meeting this week, where I'll let them know more formally, that I will be leaving. But they haven't really been needing my presence yet, because they're working with already established data from like the Census Bureau, home sales, that sort of thing. So, they're not at the point yet where they require a zoning administrator to step in and provide information or meetings. So hopefully, my replacement will be able to step in and start there with some groundwork already laid for them. But things have been rolling along pretty well with them. They've got the website up and running. The survey is not online yet, but the website is there. And I'm about to go to each individual city and drop off a survey box where folks can either scan for the website or take a paper copy of the survey and drop it back off in those boxes. And I'll be doing that either later this week or early next week. But other than that, that is all the old information I have.

Chairman Benyshek: Thank you Dustin. I read in your email about the moratorium on accepting any applications, you know, for the next 120 days, and I think you said it started last Wednesday there if I understood correctly. So like in relation to, for instance, like this zoning request we tabled this evening and preliminary, or I guess, you know, I know it's not going to affect a preliminary plat a whole lot until they meet the recommendations to present a final plat but more than likely, this one will probably be sitting on the table until April or beyond, I guess is what I'm understanding. And then, like you said next month in December, if we have any cases are those looking to get like automatically tabled if we have any cases for December?

Dustin Parks (Staff): No. So, the December cases will be the last cases that we've accepted applications for. So, they'll process like normal, unless the Planning Commission has reason to table those cases. Then that tabling would be until April.

Chairman Benyshek: Okay. Understood. Okay. Well, thank you. Any other questions from Commissioners on the old business report? Okay, then moving into new business.

Item 8: NEW BUSINESS

Dustin Parks (Staff): The only new business I have is that next month, we do have three cases. They're all three subdivisions. They're all short-form plats. So, there'll be prelim, final, and rezonings if necessary. And that's really all I have. December 18th is the meeting date. It's short so it's coming up quick.


Chairman Benyshek: Any other Commission members have anything to report or anything new business wise? Well, looking as if we have no further business to discuss. I guess I would, I guess seek a motion to adjourn.

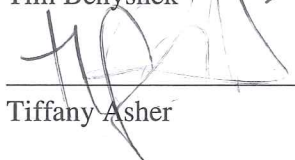
Secretary Asher moved to adjourn the meeting. Commissioner Hazen seconded. All said aye.

Item 9: Adjournment – 7:57 PM

Minutes taken by: 
Erin George

Approved: Dec. 18, 2023
Date

Chair: 
Tim Benyshek

Secretary: 
Tiffany Asher

