

Jefferson County Planning & Zoning Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of the Planning Commission Meeting of Mar. 27th, 2023

Item 1. Call to Order

Item 2. Approval of the Agenda

Secretary Asher moved to accept the agenda as presented and Vice Chair Scherer seconded.

Votes were taken by Ayes and Nays as follows:

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

Motion Passed 4-0

Item 3. Roll Call

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|----------------------------------|------------------------------------|------------------------------------|-------------------------|---------------------|-------------------|---------------|
| Tim Benyshek Chairman | Matt Scherer Vice Chair | Tiffany Asher Secretary | Stephen Phillips | Paul Johnson | Greg Hazen | Vacant |
| PRESENT | PRESENT | PRESENT | PRESENT | ABSENT | PRESENT | --- |

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

Chairman Benyshek asked if there were any corrections for the minutes. Secretary Asher moved to approve the minutes and Vice Chair Scherer seconded.

Votes were taken by Ayes and Nays as follows:

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|----------------------------------|------------------------------------|------------------------------------|-------------------------|---------------------|-------------------|---------------|
| Tim Benyshek Chairman | Matt Scherer Vice Chair | Tiffany Asher Secretary | Stephen Phillips | Paul Johnson | Greg Hazen | Vacant |
| 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.

- I. **PR2023-03 and Z2023-03**: A request for the preliminary and final plat of the Cedar Hills Addition Subdivision, a two-lot subdivision located off of Dabinawa Dr, between 46th St. and 54th St, McLouth. This request is being brought by Cathleen Martin of 4923 Dabinawa Dr, McLouth, KS 66054. There is also a request to rezone Lots 1 & 2 of the proposed subdivision from “RR” Rural Residential to “SR” Suburban Residential.

During this time, staff asked who was here for the first case. The applicant, Catherine Martin and her surveyor, Travis Haizlip were present. Mark Harlow from the public was present also for this case. Dale Hearn from the public was present via Zoom.

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: Before we move to the applicant, do any Commission members have any questions, comments, concerns for Dustin at this time?

Commissioner Asher: I do.

Chairman Benyshek: Go ahead.

Secretary Asher: Can Lake Dabinawa take away the access to the road, for the people that are existing, like the existing house or anyone else that has access to that road? Can they just do that whenever they want?

Dustin Parks (Staff): Usually once access is granted, it's, I would say probably, a civil suit to pull it off. It would be very difficult once access is granted.

Secretary Asher: Okay, so I just saw in the agreement that they have to pay so much money each year. So, I'm guessing if they stopped paying then they just don't have access.

Dustin Parks (Staff): At that point, I believe it would become more of a civil matter between the association and the property owner, then, you know, you can't access the road anymore. But that is entirely up to Lake Dabinawa Association on how they would handle that.

Chairman Benyshek: Any other questions? Matt?

Lost audio from the Commissioner room for a few minutes.

Vice Chair Scherer: Dustin, my question was what the paving for Lake Dabinawa Lane is or Drive, I guess?

Dustin Parks (Staff): Did you say the paving?

Vice Chair Scherer: Yes.

Dustin Parks (Staff): I am unsure. Since it's a private road, we don't really keep a record of that. And that's really the only information I have on it.

Vice Chair Scherer: Okay, thanks. I'm sure somebody can answer that question for me.

Chairman Benyshek: Before we move on, Steve, Greg, any questions of Dustin before we move on? Shaking heads, no. Okay. I don't think I myself have any questions at this time. So, we'll go ahead and if the applicant or applicant's representative would like to make a brief presentation or statement if you would do us the honor of coming forward and before you get started, state your name and address for the record and then take off.

Travis Haizlip (Surveyor for applicant): Yes, sir. Travis Haizlip, Cook, Flatt & Strobel Engineers. I have a Topeka address. Our business address is 2930 SW Woodside Dr. Topeka. I'm here on behalf of the applicant, Cathy Martin, who is the seller and on behalf of the buyer as well who is purchasing the south four acres of that property, Mr. Steve Liebert. Mr. Liebert is a Kansas native who was a roofer here for a long time and he wanted to retire somewhere nice and warm. So, he went down to Florida and decided that it wasn't for him. And so, he came back here, and he sought out a place in his old neck of the woods that was kind of comfortable and secluded, and he was from Jefferson County at some point, and so he came here and he found this piece of property that Cathy owns and he got with her and negotiated a deal and then contacted us to facilitate the effort of the rezone and the platting. I'm the surveyor and I prepared the plats and kind of helped push this project along in the many different aspects as far as the utilities and just everything we do. Dustin pretty much explained all the technical details I don't know that I need to reiterate any of that but if you guys have any questions for me.....

Chairman Benyshek: Just a quick couple of questions. One, we will address Matt's. Is the paving on Dabinawa Drive is it asphalt or gravel as far as the road frontage there?

Travis Haizlip (Surveyor for applicant): It is asphalt there.

Chairman Benyshek: Then I was just curious, you know, obviously that south track that you said is going to be sold, is a heavily wooded area and I'm somewhat familiar with Dabinawa, but like the sewer systems that are out there, are they primarily like your typical lateral system, or do they do lagoons out there?

Travis Haizlip (Surveyor for applicant): Yes, laterals is what she is using now. And that's what he plans on putting in the ground as well. Pending the Health Dept. They are going to tell him where he needs to put it to get the best perc.

Chairman Benyshek: Okay. Any questions of the applicant while he's at the podium? Thank you.

Dustin Parks (Staff): Matt, I owe you an apology. I could have told you that. I thought you were asking what kind of paving it was like if it was you know, ABS leading into asphalt or that kind of thing. So, I apologize about that.

Chairman Benyshek: So, at this time, any folks here in the audience or on our Zoom call who would wish to speak in favor of the application, now would be your time to be heard. Okay, doesn't look like we have any takers there. So, we'll move on then. Anyone who would like to speak in opposition of the current application, whether it be in person or on Zoom would be your time now to be heard. Yes, sir.

Mark Harlow (4924 Wellman Rd): I'm Mark Harlow. 4924 Wellman Road. I'm on the west side of the property. And I guess my question, I don't know if it pertains to the zoning, or whether it's Rural Residential or Suburban Residential. But would there be a limitation on the amount of disabled vehicles that are on the property?

Chairman Benyshek: Dustin, I'm gonna have to refer to you on that question there. The question was if there's a limitation on the amount of, I believe the word was disabled vehicles or parked cars on the property.

Dustin Parks (Staff): The zoning doesn't really matter for that in terms of number. We do have regulation in place that says that the individuals are only allowed to have upwards of two disabled vehicles. Now, by disabled, they mean like, not able to run no tags, no tax, or no tags, no insurance, you know, that sort of thing. But if, if there are issues with that on and you know, from the aerials, you can see that there are quite a few vehicles on the property. We invite individuals to go ahead and fill out a complaint form and submit that to our office. And that's actually the process for handling that.

Mark Harlow (4924 Wellman Rd): Okay, I appreciate it.

Dustin Parks (Staff): Sure.

Chairman Benyshek: Any other individuals in the audience or on Zoom, who would like to speak in opposition of the application currently? Okay. Yes, at this point in time, if the applicant or anybody would like to make a rebuttal statement,

I know we had more of a question there than anything on the opposition to application, but now be the time if you guys have any comments or rebuttal statements towards that.

Travis Haizlip (Surveyor for applicant): I guess I can, I can quickly say in reference to your question, sir. And in regards to the potential split for more property on Suburban Residential, Mr. Liebert has no plans to, he's gonna build a home here. And that's what he wanted, the trees. He's going to take out just enough to get his infrastructure in, get a home build. And he does have an RV. You know, he will be parking his RV there. I don't believe he plans on keeping his boat there. That'll probably be at a slip somewhere.

Mark Harlow (4924 Wellman Rd): There's several back in there.

Catherine Martin (Applicant): They're gone.

Dustin Parks (Staff): I did want to say, I didn't put it in the staff report, because it's nothing concrete, but I can at least let the individual who spoke in the public know that the individual who's kind of started this process for the split, had mentioned to me a couple of times on the phone that he was looking to help Ms. Martin clean up the property. So, I know that that is also on his mind at least. But like I said, I can't attest to that. I can't, you know, say that that's for sure what's going to happen, but I know that he brought it up a few times on the phone. So, it might be something that could be worked on here shortly. But I just wanted to throw that out there that it was known by the person who's looking to divide the property up or at least build a house that there was some work that needed to be done on cleaning up that property.

Chairman Benyshek: Thank you, Dustin. So, moving on here. The next item, I guess is is are there any further questions of staff or any of the applicants here? Now would be the time for Commissioners to get that in. If not, I would entertain entertain a motion here.

Vice Chair Scherer moved to approve PR2023-03 and Z2023-03. Secretary Asher 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 | Vacant |
|----------------------------------|------------------------------------|------------------------------------|-------------------------|---------------------|-------------------|---------------|
| DNV | Aye | Aye | Aye | --- | Aye | --- |

Motion passed 4-0

II. TA2023-01: A request to consider amending Article 1-104 pertaining to the definition of Guesthouses.

Chairman Benyshek: Okay, moving on to our next item on our agenda here. We have TA2023-01. A request to consider amending article 1-04 pertaining to the definition of guest houses. And looks like Dustin had sent out that memo with that text amendment there. And so, Dustin, I'll let you make comments on there if you have any updates or anything to fill us in on other than the verbiage that we have in front of us here.

Dustin Parks (Staff): All right, I'm going to go ahead and share my screen again, just in case anyone needs to see. There we go. Okay, so this is what we had discussed, basically the combination of what we discussed a few months back, where instead of creating kind of reinventing the wheel, just kind of altering the existing Guest House regulations by removing the word temporary, and then removing the last sentence since the Planning and Zoning office doesn't really have any jurisdiction over utilities in any regard. Since we don't permit sanitary sewers, we don't obviously have anything to do about electricity hookups or rural water hookups, besides asking if they're available. So, this is the kind of the combination of what we discussed. And so, if you were to take action on this, it would just be like the requested action down there says that recommended recommendation of approval for the text amendment. And then we would take that recommendation of approval up to the County Commission. And just a little bit of background work on this. In kind of looking at this and just kind of seeing how it's been applied. In the past, you know, the reason that we were marking through temporary is because

the guest house regulations are not something the temporary nature of it is something that we tell people, but it's nothing that we really have the ability to enforce or check. And again, the same thing with utilities. So that's just kind of why we put this forward it would allow people to build an accessory structure to have, you know, a one bedroom apartment in it for, you know, an individual that they know who may need, you know, medical observation, folks coming to stay, you know, the weekend or just like a normal guesthouse or, you know, if somebody has, you know, family that's moving back and you know, they might be able to stay there for more than just, you know, six months at a time. So that's kind of the intention of this is to kind of ease that burden a little bit on some of the public, while keeping our regulations still pretty solid in terms of what we know we can enforce.

Chairman Benyshek: Thank you, Dustin. Any questions or comments by Commissioners on here? Go ahead, Matt.

Vice Chair Scherer: Dustin, I don't know why this didn't occur to me before. But where's guest house used in the regulations aside from the definition.

Dustin Parks (Staff): So, it's not actually used anywhere other than the definition. It's more or less how we determine if a person, it's in the definitions in regards to how we can do dwellings zoning certificates, which are technically building permits. So, it's more of a definition of when someone applies for a guest house, what that actually means, since they were authorized under this definition, and it does state that in our dwellings, that a person would be allowed a guest house, but then they had to define what guest house meant. So, this is really the only place in the regs that, it would, if we change this, it's still copacetic with the rest of the regulation. Does that answer your question?

Vice Chair Scherer: Yeah, I think so.

Chairman Benyshek: Tiffany has a questioned here for you Dustin.

Secretary Asher: So, I guess I should have looked it up. Guest house definition, any required, I mean, does it say anything about what it...can I build a six-bedroom guest house with, you know?

Dustin Parks (Staff): Well, it's right there, we don't have size limitations, because we don't have building code. So, we don't really have a way to determine, you know, usually what we tell people is, you know, internally, we consider the biggest house to be the primary dwelling. But this one, specifically the guest house, right, specifically, say living quarters within a detached accessory structure. So, if a person put up, you know, a 100 by 80 shop, and wanted to convert, you know, 20 by 20 in that into, into an accessory structure, that'd be fine by this. So, we don't really have restrictions on that other than to say, you know, it can't be a bed and breakfast, can't be a boarding house. And then we also then have, like, you know, multifamily dwelling regs and stuff elsewhere, that would prevent somebody from say, turning an 80 by 100 shop into 15 guest houses. We can only permit one. So hopefully that answers your question.

Chairman Benyshek: I know, Dustin, I guess probably more of a comment than a question. It's kind of both but, and I'm not trying to split hairs here. But I know like in some regions of the county, if you know, somebody was wanting to build a guest house, you know, have a separate water hookup or hookup from the main line that's already running to the structure that's already there. I guess and maybe I missed this when we talked about this in prior meetings. But is that going to be more of an administrative side of things to determine on information from like the rural water districts, if they say there's not sufficient water supply for like two separate structures versus just the one that's already existing? Or any fees that go along with that I guess I'd say.

Dustin Parks (Staff): That's actually kind of one of the reasons that we had discussed previously about removing that line. Because it's nothing that we can really enforce. And it would be up to them to determine, you know, through rural water and all that stuff, if it's something that they can actually obtain. You know, because it's a dwelling permit, we still send them out to the Health Department, which means they still have to get a sanitary sewer system. They still have to go talk to Road and Bridge to make sure that their insurance is up to par and can handle that. So, from a county perspective, the infrastructure that we handle is still handled under the guesthouse regulations because we treat it permit wise almost just like we do a dwelling.

Chairman Benyshek: That's fine. That that clears it up for me there. I just was having a lapse in memory from prior meetings. Any other questions or comments for Dustin? Steve? Greg? They're shaking their heads no.

Vice Chair Scherer: I have a point of order. Dustin, are we supposed to have a hearing on this?

Dustin Parks (Staff): Yes, yeah. Yeah, we are supposed to go ahead and open it up to the public.

Chairman Benyshek: I apologize. My fault there. I jumped right over that. Thank you Matt. Sorry.

Dustin Parks (Staff): This is the first time that it's been in the paper and everything. So, I know, we've talked about it before at public meetings, but Matt is correct. This is the first time that it's been in the paper, which means that this is where we need to have the public speak on it if there's anyone who wants to speak on it at all.

Chairman Benyshek: Okay. All right. Well, I guess you'll serve as our applicant made their presentation. So, I'd ask if there's any members of the public presence or maybe Zoom who would like to have any input or wish to speak in favor of our text amendment? Seeing none, is there anyone who'd like to speak in opposition of our proposed text amendment? Seeing or hearing none, there is nothing for a rebuttal on here. So that's that. So now, I would ask, sorry, for Commission action here. So, unless there is further question or comments for Dustin, on our text amendment here, I would now be looking for a motion on TA2023-01.

Secretary Asher moved approval of TA2023-01 and Vice Chair Scherer seconded the motion.

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 | Vacant |
|----------------------------------|------------------------------------|------------------------------------|-------------------------|---------------------|-------------------|---------------|
| DNV | Aye | Aye | Aye | --- | Aye | --- |

Motion passed 4-0

Dustin Parks (Staff): It should be worth noting for the record that this case would also go in front of the County Commission on the 17th of April, if that is the date. There aren't any letters sent out about that one. It'll just be at that meeting. So, keep an eye if you're interested in this case, keep an eye on the County Commission agenda for that day.

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

Edith K. Williams and Janet Lowther from the public were present.

Chairman Benyshek: Thank you. Moving on to Item number six in our agenda for the evening. That is the comments from the public on items that are not on the agenda. This would be the time if any folks in our audience, I don't think we have anybody on Zoom left anymore. But if anyone has any comments in our audience, now would be time to make comment. If you would so kindly when you reach the podium, their state name and address for the record, please.

Janet Wilder (109 W Cynthia St, McLouth): Janet Wilder, 109 W Cynthia, McLouth. Basically, I'm a little bit concerned that the Crypto Colo people are claiming that the withdrawal of their application was not legally done. Do you know if the process restarts or if the moratorium stands?

Chairman Benyshek: Well, I'm going to be perfectly honest with you. I don't have an answer to that question at this point. However, Dustin, if you so choose, if you heard the comments there. If you have any information that you can or would provide, be more than willing to let you do so. there, but at this point in time other than the moratorium being in effect, I don't have any further updates from my end here.

Dustin Parks (Staff): So, the moratorium is still in effect. That is completely handled by the County Commission. So, if you have questions about that in the future, I would recommend reaching out to them directly. That is not something that

is a Planning and Zoning function because it was a resolution passed by them and with the aid of their County Counsel. In regards to the application withdrawal, as far as my office is concerned, it still stands. But we haven't seen any action regarding that yet. But that's as much information as I have right now. Nothing on our end on that has changed yet.

Janet Wilder (109 W Cynthia St, McLouth): Thank you very much.

Chairman Benyshek: Okay, any other comments for items not on our agenda this evening? Seeing none, we will move on to item number seven and that is our old business and general staff report.

Item 7: OLD BUSINESS, GENERAL STAFF REPORT

Dustin Parks (Staff): Let's see, old business, the County Commission, last week, they did approve the O'Neill subdivision that you guys saw on February 27th. And they did ask to review the public comments from the 27th as well. So, they actually specifically requested the minutes to review the public comments that were raised on the 27th. So just wanted to put that out there that they did read through a lot of those comments. And they also got all the written comments as part of the staff report that was sent to the Planning Commission. So, the County Commission did at least have access to all that information. So, I'm thinking everything other old business? We did put the Board of Zoning Appeals appointments kind of on hold for the moment while Josh kind of reviews the resolution and that sort of thing. The County Counsel reviews the resolution. So, if there's a movement on that in the near future, I'll let you know for sure how that looks. And I think that's all I have really for old business.

Chairman Benyshek: Any comments on old business from commissioners at this time?

Vice Chair Scherer: Got an unrelated question, Dustin. How many amendments have you got on your desk right now? We have the crypto moratorium for development of appropriate regulations. And then we have wind I believe.

Dustin Parks (Staff): Wind and solar.

Vice Chair Scherer: That's it or do you have some others sneaking around up there?

Dustin Parks (Staff): That's all I have room for on my desk. Yeah, right now, upcoming, and I don't have a timeframe in mind just yet, because I'm still kind of researching and getting it out there or gathering stuff from out there. But yeah, upcoming amendments would look like solar, wind and potential data center/ cryptocurrency style regulation. But I don't have enough to really comment on what those look like just yet.

Vice Chair Scherer: I just want to make sure that that was all we had.

Dustin Parks (Staff): As far as I know. We'll see what happens next week.

Chairman Benyshek: Any other question or comment at this time?

Dustin Parks (Staff): I guess I should clarify that what I meant by we'll see what happens next week, is it just seems like every week something new comes up. But it's not that I have something on the horizon that I'm planning.

Chairman Benyshek: Understood. Understood. Okay, moving on to item number eight here, new business. I'm not sure if we have any new business to speak of, but go ahead, Matt.

Item 8: NEW BUSINESS

Vice Chair Scherer: Actually, I'm not sure whether this is new business or not. But you you noted this evening that Lake Dabinawa controls and is responsible for the private road. I was curious who is responsible for private roads where there's no formal organizational structure.

Dustin Parks (Staff): The homeowners.

Vice Chair Scherer: Individually?

Dustin Parks (Staff): Yep. That is why our regulations say we're not allowed to permit new private roads.....

Lost audio from the Commissioner room for a few minutes.

Dustin Parks (Staff): that is kind of why we don't allow the private roads, new private roads is because historically, most of those association roads or old association roads, will eventually falter in, in terms of maintenance, and then it just kind of falls to the homeowners. So, if the county is not maintaining it, there's not a homeowner's association maintaining it. It's up to the homeowners at that point.

Chairman Benyshek: To carry that on further, I know there was a comment made in our previous case about, you know, what happens if the new property owner fails to, you know, say, for instance, to pay their HOA dues. I know in certain HOA districts in the county and Dustin's spot on, there's usually a civil case filed and, you know, it can lead to some interesting things. But I've seen some equate to the sale of a home, which is the extreme end of that, but usually, they're able to get that resolved prior to there being any kind of enforceability on the property owner's residence or ground there.

Vice Chair Scherer: Living in a subdivision, on a private road, and there is no HOA is why I was curious.

Chairman Benyshek: Gotcha. Sure, sure. Any other new business or anything dimension for this evening?

Dustin Parks (Staff): We do have a case next month. And it is a three lot replat. Funny enough on a private road that currently exists, but that will be next, and that'll be in April. And also in April, just an FYI. You're all going to want to be present, because that's the officer elections and the reorganization.

Chairman Benyshek: So, if I don't show up, does that mean someone else gets to be Chair?

Dustin Parks (Staff): They will just elect you as Chair again. That is, I think all the new business we have.

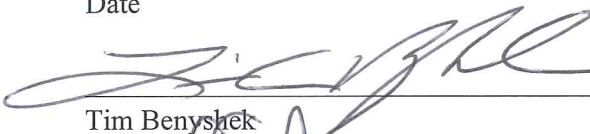
Chairman Benyshek: All right. Thank you, Dustin. Well, unless there's any other discussion of items, item number nine is adjournment. So, I seek a motion for adjournment.

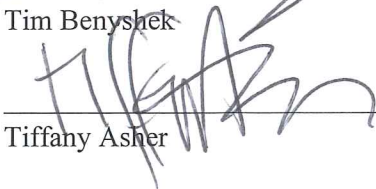
Secretary Asher moved to adjourn the meeting. Vice Chair Scherer. All said aye.

Item 10: Adjournment – 7:50 PM

Minutes taken by: 
Erin George

Approved: 4-24-2023
Date

Chair: 
Tim Benyshek

Secretary: 
Tiffany Asher