

Minutes of the Linn County Planning Commission and Board of Zoning Appeals

February 14, 2023

Richard Morrell called meeting to order at 7:00 Pm

Present, Richard Morrell (Chairman), Paul Porter (Vice-Chairman), Ed Anderson, Mike White, Elizabeth Staton, Fred Kautt, Dave Burgland

Also in attendance was Planning & Zoning Director Darin Wilson

Richard asked to approve 2 sets of minutes.

Mike White makes a motion to approve Elizabeth Staton 2nds the motion. Approved by a vote of 8-0  
Dec 13 minutes. Ed Anderson Makes a motion to approve Charlene Sims 2nds the motion. Approved by a vote 8-0

Richard calls for case Z23-01 Eastwood re-zoning.

Darin Wilson gives the staff report to the case.

**Location:**

Located West of Nickel Rd and KS HWY 7 and commonly addressed as: 7434 Ks HWY 7, Mound City, Ks 66056

**Analysis:**

Applicant has been approved for a lot split of 3 Acres to sale or lease. Under current zoning (A-Agricultural) the parcel is below the minimum (10 Acres) size and requires re-zoning as Ag/Residential.

**Staff recommendation and finding:**

- 1) The proposed zoning change conforms to the character of the neighborhood by providing the combined usage.
- 2) Neighboring A – Agricultural zoned properties and are of larger size.
- 3) Property is suitable for permitted uses of the proposed AG/ AG Residential zoning and will not negatively affect nearby properties.
- 4) The proposal re-zoning of the land creates no change or effect of surrounding properties and not create any additional infrastructure needs.
- 5) The proposed change conforms to the Comprehensive Plan by allowing more land to be kept in a larger agricultural parcel and not changed to a residential designation.

The standards that should apply is listed in Article 16.05 (4) (A-H) and with proper finding as required in Golden vs. the City of Overland Park and is located upon page 88 and 89 of your book. Staff recommends approval of the application.

Kenneth Eastwood (Mike) came to the podium to speak on his behalf of the zoning change. He let everyone know why he wanted to do the lot split and the zoning change. Not to have to tear down a house.

Dave asked if Mr. Eastwood had an agreement to access the road with KDOT. Mr. Eastwood said he got an entrance permit and that they moved the entrance down the hill from the original location due to safety issues entering HWY 7.

Dave Burgland made a motion to adopt the Zoning change and they went thru the 8 Golden Rules, Charlene asked what Agricultural properties of larger size. Darin explained that the surrounding properties would stay zoned Ag and would not be affected by the zoning change. Dave asked Mr. Eastwood about water meters on the properties. He indicated that there was meters on both properties and that they repaired the water line that went under the highway. Charlene 2<sup>nd</sup> the Motion to approve the zoning change.

Mike asked about the correction of the zoning. Darin corrected the staff report. Motion passes 8-0

Richard called case #CUP21-07 Revocation of R&B Towing Recovery

Darin gives his report.

Says that they have not met the conditions required to continue. They have not started anything on the property or supplied Jessica Hightower (Economic Development Director) with the proper information that she had asked for.

Dave asked if no work had started on the property.

Darin answered no. Also said that Jessica had reached out to them about the situation.

Jessica said that she had reached out multiple times and received no reply. She also said that the county still owns the property.

Paul asked where for the sure the property was. Jessica said that it was in the county next to FabCon.

Charlene made the motion to revoke the CUP21-07. Dave seconded the motion. It was approved to revoke 8-0

Richard calls case #CUP23-01 Reginia's Rescue

Darin presents staff report.

**Location:**

Located West of Nickel Rd and KS HWY 7 and commonly addressed as: 7434 Ks HWY 7, Mound City, Ks 66056

**Analysis:**

Applicant has been approved for a lot split of 3 Acres to sale or lease. Under current zoning (A-Agricultural) the parcel is below the minimum (3 Acres) size and requires re-zoning as R1/Residential

**Staff recommendation and finding:**

- 1) The proposed zoning change conforms to the character of the neighborhood by providing the combined usage.
- 2) Neighboring A – Agricultural zoned properties and are of larger size.
- 3) Property is suitable for permitted uses of the proposed R1/Residential zoning and will not negatively affect nearby properties.
- 4) The proposal re-zoning of the land creates no change or effect of surrounding properties and not create any additional infrastructure needs.
- 5) The proposed change conforms to the Comprehensive Plan by allowing more land to be kept in a larger agricultural parcel and not changed to a residential designation.

The standards that should apply is listed in Article 16.05 (4) (A-H) and with proper finding as required in Golden vs. the City of Overland Park and is located upon page 88 and 89 of your books. Staff recommends approval of the application.

Charlene asked Regina who says how many dogs you can have. Regina responded and said the state said that she can have that many dogs and also said she has about 55 dogs on the property currently.

Wesley Moore gets up to speak about the rescue. He states he is a volunteer at the rescue. States that he has a problem with Regina saying it is Linn County pound. She has 3 vinyl domes that was donated that are 20x30, 29 Kennels in 3 domes. There are 36 kennels outside that are weather shielded as good as they can be. He also stated that there is a problem in Linn County because of economy and people dumping their animals due to not being able to afford them. Her mission is that every animal is taken care of. She is trying to solve a problem. Having a new facility doesn't mean she is taking on more animals. It is to better serve the ones that she does take.

Charlene asked if she has a veterinarian on call. Regina answered she does have a vet on call.

Wesley states they cannot solve all the problems.

Mike White asked if they terminate any of the animals. Wesley answered there are times for health reasons.

Fred asked when a dog dies are they cremated or how they handle that. Wesley replied that the animal is buried on the property.

Dave asked about state inspections. Regina and Wesley said that it is an annual inspection, and it can be random. Regina said that the inspection was 2 months ago, and the results have not been issued yet.

Dave asked her overview of the next 5-10 years at the property. Regina replied that she will have a new facility and a vet. Also be able to teach people how to take care of their animals.

Dave asked what if you are over loaded with animals. Regina responded that she is friends with another kennel and they help each other out by taking animals if one has too many.

Charlene asked if all of her dogs are in a kennel. Regina responded that yes every dog is in a kennel and has its own heater. Every dog will have access to a run outdoors.

Paul asked what your current population is. She answered that there is 54 dogs. 24 of that are in foster care from a friend's kennel. 12 dogs that cannot be rehomed because of the abuse that the animal has suffered.

Dave said that he thinks it needs to be tabled for further information and the results from the inspection Rich asked for questions from the gallery. Reminded them that all comments need to be addressed to the chair.

Eric Schmit is a neighbor to the west. Informed the Commissioner's that him and his father bought the property last fall. Stated that he has dogs and has nothing against dogs. His main concern is the noise. Voiced that it is extremely noisy. Expressed that current noise level he would not consider building on his property.

Dave asked was the operation set up when he bought the property. Eric answered yes. Dave stated obviously it didn't bother you then if you purchased it. Eric stated the time that they looked at the property that he assumed that the noise was under control, that it was at a time that there was not much noise. Eric has concerns about sanitation. Stated that the runoff going toward his pond. Has safety concerns, because of his children. That his property value is not affected by the kennel.

Fred asked Eric if he spends the nights there. Eric said no he is not and cannot attest to what it sound like at night.

Dave asked what is Eric's primary use of his land. Eric answered hunting.

Reginia commented that if they get their new building the noise level will go down. That all the animals will be inside.

Lester Town came to the podium. Owns the property right across from the kennel (rental property). He doesn't want the kennels built right up to the road that it may effect being able to rent his property.

Tom Kemper came to the podium next to speak. He stated he is the neighbor to the east about 1750 ft. away. Been there 25 years before the rescue. He said he has nothing wrong with the kennels other than the noise. He talked about setback. Feels that setback will not make a difference. He challenged everyone to come to his house and listen to the kennels. Asked is it an expansion or will the others be tore down when the new building is built.

Dennis Barrett spoke. Lives 1 mile north of Reginia's Rescue. Stated he has no problem that there is a kennel but the noise is a problem. Said that it is more often than not that you hear them. Next biggest concern is the waste. Is concerned that if it not handled properly that they will be inviting disease. What will it do to the ground water. Just wants to make sure it is regulated to the fullest.

Michael McClellan (Regina's Husband) talked about the noise. That it is to time to time. That they quiet down at night. No one has called about disturbance. The feces are picked up and composted as of right now and burned off. Feels that it will not go into a septic cause it is mixed with straw.

Craig Healy spoke on behalf of Regina. Stated that he was there as an individual not as a county deputy. Stated he is the part time Chief of Police in Parker Ks. Has a good relationship with Regina. That he uses them all the time with stray dogs in Parker. Said that he has toured the facility and was amazed that there wasn't as much waste as he thought there would be. Craig thinks that it is something that is needed in the county. He also knows that she will turn dogs away because of being over populated at her kennel. Would like to see this worked out that it can be approved.

Charlene said that people have said she is building a building. But wanted to clarify what they were approving. Darin stated that it was for the whole 18 acres. They will have to get a building permit as required by the county.

Mike stated that the state says she can have 100 dogs but the P&Z can also put a number on that. Darin commented yes. Regina said she will probably only want to do 50 cause of the man power to take care of them.

Charlene asked about the sanitation and the compost. Michael stated that it will be burnt. Darin commented he will have to check with KDHE. That he checked on another kennel, but it was up against a Lake and they recommended a holding tank. He also stated he understands that septic is an issue and grates will need to be put over the clean outs of each kennel. Recheck with KDHE.

Fred asked Darin about the sound and noise. Is there anything to be done for the noise. Fred recommended Cedar trees planted close together to block some of that noise. Darin said that there is sound proofing board that can be installed during construction of the building to help with noise. That it will not get rid of all the noise, but it does help. Darin also reinitiated tabling it for the time being cause of all the thought that needs to go into this CUP to get it approved and make the neighbors happy also.

Ed asked Regina about the grant for the building what is the timeline to receive the funds if it is approved. Regina replied that they are hoping to have the money by summer. Ed asked time frame for construction to happen. She said that is the tough part.

Mike asked if a decibel meter could be determined. That they can hear the train from a mile away.

Darin said that if it tabled tonight that he doesn't want people to be discouraged. That it is important that the P&Z commission put a lot of thought into this for everybody involved.

Paul said that a lot of consideration needs to be taken compared to other things that they have heard in the past. Referring to horse stalls.

Rich asked what is the flooring for the runs. Michael said that they have cattle panels buried in the ground to keep the dogs from digging and that some have rubber horse stall mats in them.

Fred asked for pictures of the operation.

Dave re introduced his motion to table the CUP for the future when all the information is available. Elizabeth 2<sup>nd</sup> the motion. Voted to table 8-0. Motion passes until a time to be determined.

Mike asked what kind of information they needed.

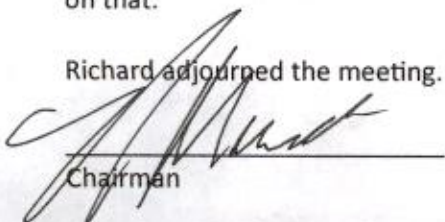
Darin said site plan, setbacks, waste disposal plan. More information from KDHE.

Richard asked about weather shielding. Wesley stated that it is tarped so the wind does not blow directly on the animals.

Other Business

Darin brought up that it was talk about move the regular meeting to 6:00 pm. No decisions were made on that.

Richard adjourned the meeting. 8:16

  
Chairman

  
Secretary