

FRANKLIN COUNTY PLANNING COMMISSION
PUBLIC MEETING MINUTES
6:30 P.M., MARCH 19, 2020 AT THE
COUNTY COMMISSIONERS MEETING ROOM FRANKLIN COUNTY ANNEX

ATTENDANCE:

MEMBERS: M. Wilkins; J. Pickett; L. Spencer, Chair; R. Bowers; C. Campbell; S. Valencia; D. Barkley and N. Mast were present. J. Camis was excused.

STAFF: Larry D. Walrod, Planning Director and Deann Farrell were present

COMMISSIONERS: None were present.

ADMINISTRATOR/CO COUNSELOR: None were present.

PUBLIC: Six (6) people signed in. Sign-in list is part of the official file copy located in the Planning Office.

NOTES: Chair called the meeting to order at 6:30 p.m.

GENERAL BUSINESS:

ADOPTION OF THE AGENDA: Chair asked if there were any amendments to the March 19, 2020 Agenda. There were none. Chair asked for a motion. C. Campbell made a motion to accept the agenda as presented. S. Valencia seconded the motion. The Chair called for voice vote. All voted in favor. The agenda was approved 8-0 as presented.

APPROVAL OF MINUTES: Chair asked if there were any corrections to the January 16, 2020 Public Meeting Minutes. There were none. Chair asked for a motion. R. Bowers made a motion to approve the minutes of the January 16, 2020 Public Meeting as written. The motion was seconded by M. Wilkins. The Chair called for voice vote. The minutes were approved 8-0 as written

COMMUNICATIONS: Staff stated the only communication is an item that would be discussed at the end of the meeting.

EX PARTE COMMUNICATIONS: There were none.

PUBLIC MEETING ITEMS: The Chair opened Public Meeting Items.

1. *Application #2002-1740 (Bishop) for a Variance to Chapter II, Article 8 Section 2 to the required acreage size and setbacks for a new lagoon. Said property is located on the South side of Stafford Road approximately one-quarter (1/4) mile West of Tennessee Road in the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section 35, Township 15 South, Range 20 East.*

Staff Presentation: The Chair opened Staff Presentation. Staff stated that the applicant is requesting approval of a Variance to permit the construction of a new on-site wastewater stabilization pond (lagoon) to serve the existing residence. The property is approximately 2.6 acres in size and is located on the South side of Stafford Road approximately one-quarter (1/4) mile West of Tennessee Road in the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section 35, Township 15 South, Range 20 East. Several months ago the Planning Commission and County Commissioners agreed to amend the County Sanitation Code to address situations where on-site sanitation, and/or on-site potable water, is not readily available and would not comply with the standards that are in force and effect through the County Sanitation Code that is in place at that time. One of those amendments involved the approval of a Variance process for sanitation systems, which is the situation before the Planning Commission this evening. Beginning in March of 2019 there was a lot of communication back and forth between Mr. and Mrs. Bishop and the County Sanitarian concerning the sale of certain properties of which the County requires inspections of the sanitation system be made at the time of the sale. It was discovered that the system that existed serving the existing residence did not meet the minimum County or State requirements for on-site sanitation. As a result of this inspection, further testing was done to see if there were other options available to replace the existing system on-site and still meet the standards. This is a small lot, just over 2-1/2 acres, that doesn't meet the minimum standards that we have today even for the R-3A Zoning District. However, this lot was created years ago and therefore has certain grandfathered rights. Subsequent to that, the Environmental Health Department did receive engineering reports on the soil analysis and, based on the fact that this lot is substantially located within the floodplain, the capabilities of the soil for absorbing anything to utilize the standard septic system and leach fields were not going to be an alternative that would be available. This left one other option available and that is a lagoon. The County currently requires 5 acres for a lagoon for on-site sanitation purposes. Obviously this site doesn't meet that requirement. However, after looking at the engineering reports they were able to come up with a design that would work, however this site doesn't meet the minimum requirements. The applicant is therefore requesting a Variance to allow them to place a lagoon on this site in lieu of a traditional septic system. Staff has reviewed the Variance request and does agree that this is the most favorable option available at this particular location based on the circumstances. Therefore, Staff does recommend that the Planning Commission approve the Variance subject to the two (2) conditions that are part of the resolution. The Chair closed Staff Presentation.

Applicant Presentation: The Chair opened Applicant Presentation. Daryl Bishop, the applicant, was present. Mr. Bishop stated that he can't meet the setbacks required to install the lagoon. This is the reason for the Variance request. The required distance is 100 feet from the property lines. There is a large barn and a concrete slab also located on the property. When the property was originally created it wasn't located in the floodplain. However KDHE revised the floodplain map and now half the property is located within the 100 Year Floodplain because of the creek that is not far away from the site. The soil profiler would have recommended a regular system, except it is located within the floodplain.

J. Pickett stated that on the aerial photo it depicts that a portion of the existing residence is located within the floodplain. Does the house flood, or has it flooded, to his knowledge?

Mr. Bishop stated no the existing residence hasn't flooded. It is a mobile home that is up on piers. He plans to dig a footing under the mobile home and installing a concrete wall that comes up a little bit and then doing concrete blocks under it so that if it should ever flood in the future that water would have to run around the residence.

C. Campbell asked what exactly the concrete slab was that he mentioned earlier?

Mr. Bishop stated previously there was an old farm at this site and they had a grain drier at the spot where the slab is currently located. He is planning to install the lagoon approximately 20 feet from the concrete slab.

J. Pickett asked if the top of the dike of the lagoon would be 1 foot about the base flood elevation?

Staff stated that that top of the dike of the lagoon is required to be 1 foot above the base flood elevation. When they dig out for the lagoon they can raise the height of that levee, or dam, around the lagoon would meet that criteria. An inground septic system can never meet that criteria because the lowest part of that system has to be 1 foot above the base flood elevation.

Mr. Bishop stated the only requirements he can't meet is the required setbacks and the required acreage size.

J. Pickett asked if he owns the property that is adjacent to the site?

Mr. Bishop stated he does own the adjacent tract. This site was his mother-in-laws residence and she had to sell it when she went on medicaid so he purchased it.

J. Pickett asked since he owns both tracts why can't he meet the required setbacks?

Mr. Bishop stated that he could if he went to the expense of doing a boundary line adjustment survey. The Chair closed Applicant Presentation.

Public Comment: The Chair opened Public Comment. There were none. Chair closed Public Comment.

Board Discussion. The Chair opened Board Discussion. There were none. The Chair closed Board Discussion.

The Chair asked for a motion. R. Bowers made a motion to recommend approval of application #2002-1740 (Bishop) for a Variance to Chapter II, Article 8, Section 2 to the required acreage size and setbacks for a new lagoon as described by Chair and based on Staff recommendations and the findings as stated in the Staff Report and subject to the conditions in the Resolution. The motion was seconded by M. Wilkinsa. The Chair called for roll call vote.

Camis	Excused	Spencer	Yes	Mast	Yes
Wilkins	Yes	Barkley	Yes	Campbell	Yes
Valencia	Yes	Bowers	Yes	Pickett	Yes

Motion carried 8-0.

2. *Application #2002-1742 (Livingston) to rezone approximately 18.67 acres from A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District. Said property is located on the West side of Tennessee Road between Pawnee Road and K-68 Highway, in the South Half (S ½) of the Northeast Quarter (NE ¼) of Section 26, Township 16 South, Range 20 East.*

Staff Presentation: The Chair opened Staff Presentation. Staff stated that the applicant is requesting to rezone approximately 18.67 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District. The property is located on the West side of Tennessee Road between Pawnee Road and K-68 Highway, in the South Half (S ½) of the Northeast Quarter (NE ¼) of Section 26, Township 16 South, Range 20 East. The purpose for the rezoning is to permit the division of approximately 18.67 acres, with the existing residence and outbuildings, from the remaining approximate 52.63 acres of the agricultural land for refinancing purposes. The

applicant would retain the remaining agricultural land for agricultural purposes. The existing residence is already served with on-site water, by RWD #1, and does have an existing on-site sanitation system. This would be a unique design because of the long driveway and other existing improvements that are currently on the site. Staff finds that the rezoning request is substantially in compliance with the goals and objectives of the County Comprehensive Plan and the County Zoning Regulations as well as the provisions set forth in the Supreme Court case of Golden vs. the City of Overland Park. In consideration of the rezoning, the Planning Commission should look at the thirteen (13) findings of fact based on the guidelines that are listed in your Staff Report along with the factors from the Golden Case. This request also meets all of the minimum standards set forth in the Subdivision Regulations regarding lot length-to-width ratio, parcel size and frontage. After reviewing the character of the surrounding area and the policies of the Comprehensive Plan and the statute, K.S.A. 12-757A, which states that the rezoning is generally in compliance with the land use provisions of the Comprehensive Plan is deemed reasonable. Notice was given to eleven (11) surrounding property owners. Staff did not receive any comments against this rezoning request. Therefore, Staff recommends that the Planning Commission adopt the attached draft resolution recommending approval of rezoning application #2002-1742 requesting to rezone approximately 18.670 acres from an A-1 (Agriculture) Zoning District to the R-E (Residential Estate) Zoning District based on the findings as set forth in the resolution and forward a recommendation to the County Commissioners to rezone the property and to amend the County Zoning Map accordingly. The Chair closed Staff Presentation.

Applicant Presentation: The Chair opened Applicant Presentation. Brian Livingston, the applicant, was present. Mr. Livingston stated his mother purchased the 70 acres that also includes the 10 acres, with the existing outbuilding that was then converted to a residence prior to him purchasing the remaining acreage. The previous property lines cut off the circle drive so they did a boundary line adjustment creating the 10 acre tract that his mother now owns. Mr. Livingston stated he had a conventional mortgage on the remaining acreage and residence and once the boundary line adjustment was done it no longer met the requirements for the conventional mortgage. He went to the bank to do refinance to build the new horse barn. When he told them what had transpired the banker stated they couldn't have him under a conventional mortgage anymore. That has put him in a bind because that has put him with a mortgage on a 70 acre piece of property. The only reason for the rezoning is to have a tract under 20 acres, with the existing residence, under a conventional mortgage. The Chair closed Applicant Presentation.

Public Comment: The Chair opened Public Comment. David McElfresh, 2409 Oregon Road, stated he is opposed to the rezoning because it would allow the applicant access to build three (3) more residences. He would like to see that land stay agricultural and if they were allowed to build three (3) more residences it would raise his taxes. Chair closed Public Comment.

Board Discussion. The Chair opened Board Discussion. D. Barkley asked if Staff could describe what the purple line depicts.

Staff stated the purple line follows an old survey that was done originally when they constructed the existing house. This was done several years prior to the motocross, which was approved for the entire site.

D. Barkley asked if the two (2) residences located on the aerial photo was correct?

Staff stated that when the Livingston's purchased the property his mother stated she would like to convert the existing outbuilding into a residential structure, which is now on the approximate 10 acre tract. The boundary line adjustment was then done that moved the 10 acre tract of land that encompassed the original house and traded that for the 10 acres North that now has the residence that his mother resides in. This meant that the other existing residence was now on a 70 acre tract of land. What is proposed now, for financing purposes, is to do a lot split of 18.67 acres around the existing residence but the rezoning needs to be approved first. The remaining 52.63 acres would remain agricultural. There was an issue stated earlier that this would allow for three (3) more residences. This rezoning would not allow for three (3) more residences because they would have to do another rezoning and a subdivision plat in order to be allowed three (3) more residential lots. This rezoning is only creating an 18.67 acre tract, with an existing residence, and would leave the remaining 52.63 acres as another tract. The only way

they would be able to utilize the 52.63 acre tract, because of the minimal amount of frontage, might allow one (1) additional residence. The Chair closed Board Discussion.

The Chair asked for a motion. J. Pickett made a motion to recommend approval of application #2002-1742 (Livingston) to rezone approximately 18.63 acres from an A-1 (Agriculture) Zoning District to an R-E (Residential Estate) Zoning District as described by Chair and based on Staff recommendations and the findings as stated in the Staff Report. The motion was seconded by R. Bowers. The Chair called for roll call vote.

Camis	Excused	Spencer	Yes	Mast	Yes
Wilkins	Yes	Barkley	Yes	Campbell	Yes
Valencia	Yes	Bowers	Yes	Pickett	Yes

Motion carried 8-0.

Staff stated that this matter would go to the County Commissioners for final action. However, since they are only meeting every other week Staff is not certain when this item would be on their agenda for final action.

3. *Application #2002-1743 (Stoneking) to rezone approximately 20.00 acres from an R-E (Residential Estate) Zoning District to an A-2 (Transitional Agriculture) Zoning District. Said property is located near the intersection of Idaho Road and Kingman Road, on the West side of Idaho Road and North of Kingman Road, in the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 14, Township 17 South, Range 18 East.*

Staff Presentation: The Chair opened Staff Presentation. Staff stated that the applicant is requesting to rezone approximately 20.00 acres from an R-E (Residential Estate) Zoning District to an A-2 (Transitional Agriculture) Zoning District. The property is located near the intersection of Idaho Road and Kingman Road, on the West side of Idaho Road and North of Kingman Road, in the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 14, Township 17 South, Range 18 East. The purpose for the rezoning is to permit the merging of two (2) 10.00 acre tracts into one (1) 20.00 acre tract. This property was platted in a subdivision a number of years ago. So, not only is it divided into two (2) different tracts but, because of the requirements of the County Subdivision Regulations, there are utility easements along the center boundary line between the two lots. The Staff Report contains an aerial photo that depicts what the tracts look like today and another one that depicts what it will look like after the merger takes place. Since the newly created tract would exceed the acreage size for the R-E Zoning District, they must be rezoned to the A-2 Zoning District. Staff finds that the rezoning request is substantially in compliance with the goals and objectives of the County Comprehensive Plan and the County Zoning Regulations as well as the provisions set forth in the Supreme Court case of Golden vs. the City of Overland Park. In consideration of the rezoning, the Planning Commission should look at the thirteen (13) findings of fact based on the guidelines that are listed in your Staff Report along with the factors from the Golden Case. The merger of these two tracts would also meet all of the minimum standards set forth in the Subdivision Regulations because this is the only way to eliminate the easements and the common boundary of the two lots is to do a replat of the two lots creating one lot. The basis for this is because the building site is pretty close to the center of the property and that meant that they would have to go through a bunch of Variances and rather than do that it was easier to merge both tracts together and make it easier to place the dwellings and outbuildings on the property. This would also satisfy the minimum standards set forth in the Subdivision Regulations regarding lot length-to-width ratio, parcel size and frontage. After reviewing the character of the surrounding area and the policies of the Comprehensive Plan and the statute, K.S.A. 12-757A, which states that the rezoning is generally in compliance with the land use provisions of the Comprehensive Plan is deemed reasonable. Notice was given to seven (7) surrounding property owners. Staff did not receive any comments against this rezoning request. Therefore, Staff recommends that the Planning Commission adopt the attached draft resolution recommending approval of rezoning application #2002-1743 requesting to rezone approximately 20.00 acres from an R-E (Residential Estate) Zoning District to an A-2 (Transitional Agriculture) Zoning District based on the findings as set forth in

the resolution and forward a recommendation to the County Commissioners to rezone the property and to amend the County Zoning Map accordingly.

C. Campbell asked once this property is developed, how many residences would be allowed on the twenty (20) acres?

Staff stated there would only be one (1) residence allowed because they County Regulations only allow one (1) residence per lot or tract of land.

D. Barkley asked if the applicant owns both tracts?

Staff stated yes the applicant owns both tracts of land and in fact, the wife is a relative of the person that originally subdivided the land.

C. Campbell asked if the applicant plans to sell the lot or to build on it?

Staff stated the applicant plans to build on the tract. That is how the rezoning came to happen was because they wanted to build a structure on the site but it was going to be too close to the boundary so they would have to get a Variance. Then they asked if they would want to build a residence out there later. I told them that would require another Variance so they decided the easiest thing to do would be to merge the two (2) tracts into a single lot because they have to intention of selling it anyway. That common boundary between the two (2) tracts of land did nothing but complicate things.

J. Pickett stated that this meets all the goals and objectives of the County to eliminate rural growth. In the fifth paragraph of the background it states that it would result in additional residential development and it really wouldn't.

Staff stated that this would limit and number of additional units rather than permit additional units. This site is across the road from the Methodist Church Camp to the West and is in an area that has a lot of timber and growth on it and is limited to a decent building site. The Chair closed Staff Presentation.

Applicant Presentation: The Chair opened Applicant Presentation. There were none. The Chair closed Applicant Presentation.

Public Comment: The Chair opened Public Comment. There were none. Chair closed Public Comment.

Board Discussion. The Chair opened Board Discussion. There were none. The Chair closed Board Discussion.

The Chair asked for a motion. R. Bowers made a motion to recommend approval of application #2002-1743 (Stoneking) to rezone approximately 20.00 acres from an R-E (Residential Estate) Zoning District to an A-2 (Transitional Agriculture) Zoning District as described by Chair and based on Staff recommendations and the findings as stated in the Staff Report. The motion was seconded by M. Wilkins. The Chair called for roll call vote.

Camis	Excused	Spencer	Yes	Mast	Yes
Wilkins	Yes	Barkley	Yes	Campbell	Yes
Valencia	Yes	Bowers	Yes	Pickett	Yes

Motion carried 8-0.

The Chair closed Public Meeting Items.

NON-PUBLIC MEETING ITEMS: The Chair opened Non-Public Meeting Items.

- 1. *Application #2003-1748, approval of a final plat of Circle "D" Acres No. 2 Subdivision (Stoneking), located near the intersection of Idaho Road and Kingman Road, on the West side of Idaho Road and North of Kingman Road, in the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section 14, Township 17 South, Range 18 East.*

Staff Presentation: The Chair opened Staff Presentation. Staff stated this is the final plat for Circle "D" Acres No. 2 Subdivision. Article 2, Section 6.01 of the County Subdivision Regulations permits the Planning Director to waive the Preliminary Plat for "small subdivision plats" consisting of not more than four (4) lots and where all lots have direct frontage onto County or State maintained roads and no new roads are required or proposed. Therefore, the subdivision plat for Circle "D" Acres No. 2 Subdivision has been filed as provided in Article 2, Section 6 of the County Subdivision Regulations. Public notice is not required. This is a merger of two (2) existing platted lots. The only way to eliminate that common boundary between the two (2) lots is to do a replat. Staff has reviewed the Final Plat for conformance with the County Comprehensive Plan, Zoning and Subdivision Regulations and finds the Final Plat to meet all of the criteria required for approval and filing. Staff recommends that the Planning Commission approve the Final Plat for Circle "D" Acres No. 2 Subdivision as submitted. The Chair closed Staff Presentation.

Applicant Presentation: The Chair opened Application Presentation. There were none. The Chair closed Applicant Presentation.

Board Discussion. The Chair opened Board Discussion. There were none. The Chair closed Board Discussion.

The Chair asked for a motion. D. Barkley made a motion to recommend approval of application #2003-1748, approval of a final plat of Circle "D" Acres No. 2 Subdivision as presented by Staff. The motion was seconded by M. Wilkins. The Chair called for roll call vote.

Camis	Excused	Spencer	Yes	Mast	Yes
Wilkins	Yes	Barkley	Yes	Campbell	Yes
Valencia	Yes	Bowers	Yes	Pickett	Yes

Motion carried 8-0.

The Chair closed Non-Public hearing Items.

PUBLIC COMMENT SECTION: The Chair opened Public Comment. There were none. The Chair closed Public Comment.

GENERAL BOARD DISCUSSION: The Chair opened General Board Discussion.

Staff stated that the County Commissioners took an action Wednesday morning that closed the doors of all the public offices. Business will now have to be done by either by phone or email. Staff can set up individual appointments, we would prefer not to if we can resolve it some other way. There are certain circumstances that do come up from time to time where we will have to meet with applicant's that are proposing a project or maybe having an issue with a project that has already been approved but hasn't been totally brought into compliance with one of the Codes, whether its the building code or sanitation code. Also as part of that action, the County Commissioners postponed any future meetings of the Planning Commission. We will not be holding anymore meetings until we receive some alternatives and that hasn't been done as of yet. As soon as Staff receives word that modifies that action, we will give all of you notice. Staff had tentatively scheduled a meeting for April, but that has now been postponed until we get further approval from the County Commissioners to proceed. Since we had already advertised for all of the items on the agenda this evening and all fees had been paid and had been delayed already because they filed to late to get on the previous months agenda and had to wait all this time, the County Commissioners allowed us to proceed with the meeting tonight.

J. Pickett asked about building permits, would they still be ongoing?

Staff stated yes we would still be accepting building permits and doing inspections. Typically, there isn't a lot of personal contact or even any closeness on-site at those inspections. Normally, there may not be anyone else on-site except the inspectors.

Chair stated she wanted to discuss removing a board member from the board due to lack of attendance and that member would be Jason Camis.

S. Valencia stated she would concur with that. She thinks it would be good to find someone who would be present especially since two (2) other members are having to go off the board because their terms have expired.

C. Campbell asked if there is anything that covers this matter in the bylaws?

S. Valencia stated that J. Camis had offered to resign at one point.

Staff stated that if you look through your bylaws you would find a provision to address this matter. It would still have to go before the County Commissioners because they are the ones that do the appointment. The Chair of the Planning Commission can send a letter requesting that, if it is the consensus of the Planning Commission, the County Commissioners remove the member from the board, then this would be an appropriate action. If you go back over the last year and look at how many times he has been in attendance and how many he has been absent, it is not a very good record.

D. Barkley asked if the process would be to create an opening first and then fill it or find someone to take his place?

Staff stated that you would create the vacancy first. The County Commissioners would create the position first and then the Planning Department would solicit for someone to fill that vacancy. Then the County Commissioners would have to approve whoever they find would be appropriate.

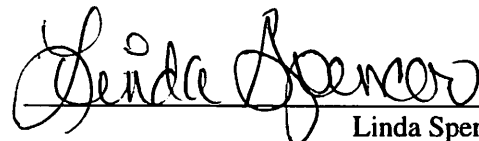
C. Campbell stated that the bylaws state when three (3) consecutive scheduled meetings or a total of half of the scheduled meetings during a calendar year.

Staff stated if it is the consensus of the Planning Commission to direct the Chair to forward a letter to the County Commissioners requesting they remove a certain member due to a particular reason.

Camis	Excused	Spencer	Yes	Mast	Yes
Wilkins	Yes	Barkley	Yes	Campbell	Yes
Valencia	Yes	Bowers	Yes	Pickett	Yes

The Chair closed General Board Discussion.

ADJOURNMENT: With no further business to discuss, N. Mast made a motion to adjourn. S. Valencia seconded the motion. All voted in favor 8-0. The meeting was adjourned at 7:08 p.m.


Linda Spencer, Chair

Attest:


Larry D. Walrod, Planning Director