



To: Franklin County Board of County Commissioners
From: Pat Toth
Department: Planning & Building
Date: Wednesday, November 8, 2023

AGENDA ITEM NARRATIVE

Consider approval of Special Use Permit Application #2308-2083 (Malone) to allow for the construction and operation of a greenhouse/nursery in the R-E, Residential Estate Zoning District.

BACKGROUND

The applicant is requesting a Special Use Permit for the construction and operation of a greenhouse/nursery in the R-E, Residential Estate Zoning District.

The proposed site commonly known as 4528 K-68 Highway and is located on the South side of K-68 Highway approximately one-quarter (1/4) mile East of Vermont Road, in the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼) of Section 33, Township 16 South, Range 21 East.

According to applicant, the proposed farm store would be a very small Amish style agricultural farm stand. The applicant currently has two (2) greenhouses constructed on the property where they grow produce, tomatoes, peaches, corn, etc. The applicant is proposing to construct a 14' x 40' store that would be open to the public to sell the produce that is grown in the greenhouses. The proposed farm store would be solely owner operated and open from 8:00 am to 6:30 pm seven (7) days a week. The applicant plans to have a small parking area (see aerial photo attached) with 8 spaces including 1 handicap space. The handicap space will either be paved or there will be a sign posted that if they are unable to come into the store to call or honk and they will deliver the items to the vehicle. There will be no public restrooms in the farm store. All produce would be home-grown and there would be no produce or trees trucked to the site from other locations to be sold in the farm store. There are no plans to sell any other items in the farm store such as potting soil, flowerpots or starter pots. The applicant does propose to hang a 4' x 6' banner sign on the front of the farm store for advertising. The sign may be permitted subject to the provisions set forth in Article 22 of the County Zoning Regulations and all provisions of the Kansas Highway Advertising and Control Act if the building the sign will be attached to is within 300 feet of any State or Federal Highway.

Notice of the hearing letters were sent to eleven (11) surrounding property owners. One (1) comment was received by Planning Department and one (1) person appeared at the public hearing in favor of granting the special use permit.

The Planning Commission has recommended approval of the Special Use Permit to allow for the construction and operation of a greenhouse/nursery in the R-E, Residential Estate Zoning District based on the findings and subject to the conditions listed in the Resolution with an 8-0 vote.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve Special Use Permit Application #2308-2083 (Malone) to allow for the construction and operation of a greenhouse/nursery in the R-E, Residential Estate Zoning District based on the findings and subject to the nine (9) conditions recommended by the Planning Commission.

SPECIFIC ACTION REQUESTED

An Affirmative motion in support of this item would read as follows: "I make a motion to approve Special Use Permit Application #2308-2083 (Malone) to allow for the construction and operation of a greenhouse/nursery in the R-E, Residential Estate Zoning District based on the findings and subject to the nine (9) conditions cited in the attached Resolution".

ATTACHMENTS

Applicant Submittals

Countywide Map

Zoning Map

Floodplain and Road Classification Map (2)

Aerial Photo

Google Photo



Franklin
COUNTY KANSAS
EST. 1855

**Board of County Commissioners
Franklin County, Kansas**

Resolution 23-

A RESOLUTION APPROVING SPECIAL USE PERMIT APPLICATION #2308-2083 (MALONE) TO ALLOW FOR THE CONSTRUCTION AND OPERATION OF A GREENHOUSE/NURSERY IN THE R-E, RESIDENTIAL ESTATE ZONING DISTRICT

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to K.S.A. 19-101; and

WHEREAS, The Franklin County Board of County Commissioners did adopt Resolution # 23-91 creating the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Planning Commission did publish notice on September 20, 2023 that public hearing would be held to consider Special Use Permit application #2308-2083 (Malone) as required by K.S.A. 12-757 and Article 23, Section 23-5.02 of the Franklin County Zoning Regulations; and

WHEREAS, the Planning Commission did on October 19, 2023 hold a public hearing for the consideration of Special Use Permit application #2308-2083 (Malone) to allow for the construction and operation of a greenhouse/nursery in the R-E, Residential Estate Zoning District; and

WHEREAS, the Franklin County Board of County Commissioners did adopt Zoning Regulations on August 14th, 2002 which included Article 23, Section 23-1 through 23-5 setting out the procedures and basis for review in considering a Special Use Permit including the following criteria:

- a. Whether the use is in compliance with, and would further enhance the implementation of, the adopted Comprehensive Plan;
 - b. Whether the use complies with the purpose and intent of the adopted Zoning Regulations;
 - c. Whether the use complies with other adopted standards of the County;
 - d. Whether the use fits the character of the neighborhood
 - e. Whether the use would be unduly detrimental to surrounding properties and uses;
 - f. The suitability of the subject property for the proposed use;
 - g. Approval of mitigation measures to minimize impacts to surrounding properties or services;
- and

WHEREAS, the Planning Commission, after due consideration of the criteria set forth in Article 23, Section 23-5.04 of the County Zoning Regulations, the relative factors of the Supreme Court case of Golden vs. City of Overland Park, together with all written reports and public testimony, the Planning Commission, by majority of its membership did find the

following:

1. That the Special Use Permit is consistent with the County Zoning Regulations
2. That the Special Use Permit is in conformance with, and would further enhance, the County Comprehensive Plan
3. That, as conditioned, the Special Use Permit will not overburden the County roads and other public services.
4. That, as conditioned, the Special Use Permit will not unduly affect the character of the surrounding community.
5. That, as conditioned, the Special Use Permit will not impact property values of the surrounding properties.
6. That, as conditioned, the Special Use Permit will comply with all other County Codes and Regulations
7. That the subject property is suitable for the proposed use.

NOW, THEREFORE, Be It Resolved, that the Franklin County Board of County Commissioners does hereby approve Special Use Permit Application #2308-2083 (Malone) as follows:

Section 1: Special Use Permit #2308-2083 (Malone) is granted for the following described property:

Beginning at the Northwest corner of the Northwest Quarter of Section 33, Township 16 South, Range 21 East of the 6th Principal Meridian; Thence South 02 degrees 21 minutes 09 seconds East for a distance of 319.00 feet along the West line of said Northwest Quarter said point being on the South right of way line of K-68 Highway; Thence North 87 degrees 51 minutes East for a distance of 54.6 feet (deed) North 87 degrees 22 minutes 45 seconds East for a distance of 51.95 feet (measured) along said right of way line; Thence North 01 degrees 59 minutes West for a distance of 229.4 feet (deed) North 01 degree 29 minutes 33 seconds West for a distance of 229.05 feet (measured) along said right of way line; Thence North 87 degrees 56 minutes East for a distance of 160.0 feet (deed) North 87 degrees 57 minutes 13 seconds East for a distance of 159.86 feet (measured) along said right of way line; Thence North 82 degrees 13 minutes East for a distance of 201.0 feet (deed) North 82 degrees 14 minutes 43 seconds East for a distance of 200.82 feet (measured) along said right of way line; Thence North 87 degrees 55 minutes 17 seconds East for a distance of 215.66 feet along said right of way line to the true point of beginning; Thence North 87 degrees 55 minutes 17 seconds East for a distance of 348.79 feet along said right of way line; Thence South 02 degrees 17 minutes 08 seconds East for a distance of 1249.05 feet to a point on the South line of the Northwest Quarter of said Northwest Quarter; Thence South 87 degrees 58 minutes 35 seconds West for a distance of 348.00 feet along said South line; Thence North 02 degrees 17 minutes 08 seconds West for a distance of 1248.72 feet to the true point of beginning, Franklin County, Kansas.

Section 2: The Special Use Permit for the real property described above shall be authorized for the construction and operation of a greenhouse/nursery in the R-E, Residential Estate Zoning District pursuant to the Franklin County Zoning Regulations and subject to the following conditions:

1. That the applicant shall obtain appropriate building permits for any new construction or re-construction of buildings subject to the Franklin County Building Codes and shall maintain the minimum front, rear and side yard setbacks.

2. That the Greenhouse/Nursery shall be owner operated and allowed up to two (2) employees.
3. Hours of operation shall be from 8:00 am to 6:30 pm Sunday through Saturday.
4. All driveways and off-street parking areas shall be maintained with all weather, dust-free surfaces.
5. That a minimum of four (4) parking spaces, including one (1) handicap parking space of a solid surface (asphalt or concrete) or set up for delivery to cars on the premises for ADA customers and ADA access to the interior of the structure. If ramps are needed, slopes will be required to meet ADA standards. The doorway will be required a minimum of at 32-inch clear width opening.
6. Any signs used in conjunction with this Special Use Permit shall conform to the Franklin County Zoning Regulations.
7. No additional/change in uses or further expansion of the operation may occur without the approval of an amended Special Use Permit.
8. A minimum of one (1) fire extinguisher shall be present on the premises at all time and shall be serviced yearly.
9. That the Special Use Permit shall be null and void by operation of law if the Special Use Permit has not been initiated and utilized by commencing the activity or use at the specified site in said permit within one (1) year of the date of approval.

PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 8th day of November, 2023. This action shall become effective upon publication in the official county newspaper.

Ianne Dickinson
Chair

Received and recorded this 8th day of November, 2023.

Janet Paddock
County Clerk