

Motion by Harstad to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Conditional Use JC18-0003 , and to approve case J C18-0003, Second by Cerka .

Cerka	Aye
Machacek	Absent
Harstad	Aye
Stone	Aye

JC-0004	Mike Tertinger	Corrine Minnick, Owner Shellsburg Cablevision, Petitioner	Conditional Use - Cell Tower
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Tertinger presented the staff report.

This applicant is requesting a Conditional Use Permit to construct a 190' self-support communications tower. The proposal includes a 2,500 square foot lease area. The lease area will include the tower, a 10' x 20' equipment shelter, and utility rack. A 6' chain link fence topped with barbed wire will surround a 30' x 30' area encompassing the tower base. A 30-foot wide access and utility easement has been shown on the site plan and will be used to provide access to the tower from Sweet Terrace Road. The new structure will have two providers located on the tower and carry equipment for the FirstNet network.

This proposal meets the standards for approval per Article 5, Section 4, § 11, Tower Regulations, of the Linn County Unified Development Code (UDC). The proposal appears to meet all the standards for approval per Article 4, Section 9, § 4 for Conditional Use Permits. As a condition of approval, the applicant must submit a signed fall zone easement and/or meet all fall zone setback requirements to 100% of the tower height.

Staff recommends approval subject to the conditions of the staff report.

Motion by Cerka to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Conditional Use JC18-0004, and to approve case JC18-0004, Second by Harstad .

Cerka	Aye
Machacek	Absent
Harstad	Aye
Stone	Aye

JV18-0001	Mike Tertinger	Jeffrey Schoon, Owner	Variance - Detached Structure
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Size

Tertinger presented the staff report.

The applicant is requesting a variance from the allowable building size for a detached accessory structure. The subject property is 1.91 acres in size. The applicant is proposing to construct a 35' X 85' (2,975 sq. ft.) detached accessory structure in the rear of an existing dwelling.

Article 5, Section 4, §3(b)(i) of the Unified Development Code (UDC) limits the size of a detached accessory structure constructed on the side or rear of a dwelling on a parcel less than 1.99 acres in size in the USR zoning district to 1,200 square feet.

Staff recommends denial of this application due to the proposal not meeting the required standards for approval for a variance.

Stone asked if the subject property contained two acres, what size accessory structure would be allowed. Tertinger stated 1800 square feet.

Jeff Schoon, 2400 Cimarron Dr., spoke as the applicant. Schoon stated he recently purchased the property and has a lot of possessions. Schoon feels it would be more aesthetically pleasing to his neighbors if all his possessions were stored inside a building instead of outside in the the yard. Schoon said they were told the septic leach field was in a different location when they purchased the property.

Harstad asked if they have a deed stating they bought two acres. Schoon said no, it stated 1.9 acres.

Barb Perkinson, 2414 Cimarron Dr., spoke against the variance request. Perkinson stated there are several detached structures in their small subdivision and are appropriately sized with the homes and lot sizes. Perkinson feels a 2,975 sq ft building is way too large for the lot and compared to the size of the house and would look like a commercial building. Perkinson feels the proposed building would negatively affect the neighborhood.

Lindsay Brown, 1106 Shamrock Woods, spoke against the variance request. Brown stated he lives in the development to the south and the east of Schoon's property. Brown believes the applicant intends to run a small business from the proposed building. Brown stated this is a residential area and feels a commercial building would devalue the properties. Brown is concerned about the potential noise caused if there are construction vehicles related to a business coming and going from the subject property. Brown is also concerned the applicant's proposal of items to be stored are false, and he believes the intent of the variance is not for personal use.

Jeff Schoon, 2400 Cimarron Dr., spoke again as the applicant. Schoon stated he does not intend to run a business at his residence. Schoon indicated he owns two 14-foot dump trailers and they do not have back up beepers that would create noise. Schoon said he owns two trucks and has kids that will soon be driving and he will therefore acquire more vehicles. Schoon said the intended use of the building is for personal storage. Schoon asked why he can not build a 2400 sq ft building, but he can build multiple 1200 sq ft buildings. He believes that having one building versus multiple buildings would look much better.

Harstad asked if the lot was two acres or greater if the applicant could build an 1800 sq ft building. Tertinger stated yes, but reiterated this lot is 1.9 acres. Harstad asked if this could be an exception since it is so close to two acres. Beck answered no because the variance applies to the building not the parcel.

Lynette Smith, 2400 Cimarron, spoke as the applicant. Smith stated their intent is to make the property look nicer. Smith indicated they do not intend to run any business from this property. Smith said they want to the ability to store their possessions in a building and have more room.

Barb Perkinson, 2414 Cimarron, stated their subdivision covenants states that you are only allowed one accessory building but it does not have a size limitation.

Motion by Harstad to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the staff report for the Variance JV18-0001, and to deny Variance case JV18-0001. Second by Stone.

Cerka	Aye
Machacek	Absent
Harstad	Aye
Stone	Aye

JC18-0001	Stephanie Lientz	Charles Rohde LLC, Owner Chad Kelly, Petitioner	Conditional Use - Contractor's Yard & Outdoor Storage
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Lientz presented the staff report.

The applicant is proposing a 17,400 square foot building for concrete contractor's office, shop, and outdoor storage on Outlot A of Vernon Valley 9th Addition. The proposed outdoor storage areas are located northwest and northeast of the proposed building, as well as northwest of the creek. There is a proposed driveway between the outdoor storage areas, which would use an existing creek crossing to access the northwest storage area. The applicant is proposing to hard surface 4.53 acres of the 18.65 acre subject property, including the building, outdoor storage areas, and paved parking areas. The applicant is proposing to use asphalt millings to surface the outdoor storage areas and the creek crossing.

The proposed use of contractor's yard or outdoor storage is allowed with a Conditional Use Permit in the HC (Highway Commercial) zoning district. Other development standards include those requirements for a major site plan, and a requirement to hard-surface parking and drives for commercial uses in the MUSA (Metro Urban Service Area). The proposal meets the parking standards found in Article 5, Section 3, §(5) of the UDC, with administrative approval of a proposed reduction in required parking spaces. The subject property is currently platted as a nonbuildable outlot, and must be re-platted before a building permit may be issued and operation of any business may commence. A Letter of Map Amendment (LOMA) from FEMA must be provided prior to construction showing that proposed structures are outside of the floodplain. Vegetative landscaping will be required east of the outdoor storage area located next to the proposed building, and is recommended south of the proposed building.

Staff recommends denial of the proposal, as it does not appear to meet all standards for approval for a conditional use permit. Staff believes the proposed outdoor storage area northwest of the creek is incompatible with surrounding property uses, is not suitable for the site, and is not in conformance with the Linn County Comprehensive Plan.

Harstad asked if the LOMA from FEMA has been done. Lientz stated no, but it is a condition listed in the staff report. Harstad asked who will submit the LOMA letter. Lientz stated the applicant will submit their application to FEMA, after review FEMA will issue the letter and the applicant needs to provide it to Planning and Development.

Harstad asked why Planning & Zoning Commission (PZC) recommended approval for the conditional use twice, but staff recommendation is still to deny the application. Lientz stated that the first recommendation of the PZC was to refer the case back to applicant for further review, which was consistent with staff's recommendation at the time. The second time the case was considered by the PZC, commissioners did not appear to share staff's concerns pertaining to the outdoor storage area and thus recommended approval. Lientz stated that staff believes the application does not meet all the standards for approval for a conditional use, therefore staff must recommend denial.

Mike Brain, 1540 Midland Ct, spoke on behalf of the applicant. Brain stated they have been working for several months trying to get the conditional use completed. The property is zoned Highway Commercial and the use the applicant is proposing is allowed with a conditional use permit in this zoning district. The neighbor to the south, Ashton Hill Farms, has outdoor weddings and events on site. Brain stated that the applicant has been working directly with that property owner regarding screening in order to prevent negative impacts to her business. Brain stated they are going to apply to move the floodplain line so that area will be usable and out of the floodplain. Brain has been working with the DNR and they have received sufficient information that indicates a Letter of Map Amendment (LOMA) can be obtained from FEMA. Regarding the hard surfacing proposed for the outdoor storage areas, Brain stated that asphalt millings are recycled asphalt. He said that in order for the oil to run off during a stormwater event, temperatures over 250 degrees would have to be reached. The applicant is not proposing to use asphalt millings in the 100-year floodplain. The applicant will also be working with Jon Gallagher of NRCS and will provide a detention basin and infiltration basins to address water quality and stormwater management. Brain stated that after these items are addressed, there will be less run-off than in an average farm field. The properties to the south all use asphalt millings and drain to the same creek.

Charles Rhode, 180 Indian Hill Rd SE, spoke as the owner of the land. Rhode has been working with the applicant for a year to sell him the property to be used as storage. Rhode stated there are several outdoor storage businesses in this area, with the exception of Ashton Hill Farms. Rhode stated this proposed project is in line with the surrounding area and businesses.

Randy Scholer, 7035 Cottage Ridge, spoke as the attorney for the applicant. Scholer stated the proposed use is compatible with the area. There has been extensive work with the Ashton Hill Farms, there will be no problem getting a LOMA, and the stormwater run off from this business is minimal compared to other businesses and many agricultural operations.

Harstad asked if there is a date when the LOMA would be issued. Brain stated they are still working through the process, but they will only apply if the conditional use case is approved.

Stone asked if any of the other properties in this area have open storage areas. Beck stated yes. Lientz stated directly to the south is Ashton Hill Farms, and to the south of that is HSI Leasing and they have outdoor storage for vehicles and boats as well as items related to their business. South of HSI Leasing is Cedar Storage, which also has outdoor storage for boats and vehicles.

Stone asked if part of the objection is visual. Lientz stated no, it is primarily water quality and compatibility to surrounding properties and downstream areas. It is the condition required by NRCS regarding asphalt millings in the floodplain.

Stone asked if this can be solved by the LOMA, why there is an issue. Lientz stated there are various site plan amendments needed. The applicant needs to show the proposed surface for the creek crossing, must submit a LOMA, and must re-plat the lot. Lientz stated all of these are conditions of approval. If these conditions are met, then approval can be made.

Lientz stated the map amendment to removing the asphalt millings from the floodplain would satisfy staff's objections at this time.

Motion by Harstad to accept the Findings of Fact, Conclusions of Law, and Decision & Order as reflected in the amended staff report for the Conditional Use JC18-0001 , and to approve case JC18-0001. Second by Cerka.

Cerka	Aye
Machacek	Absent
Harstad	Aye
Stone	Aye

IV. OTHER BUSINESS

Beck discussed rescinding the condition of approval regarding annual notice of activity for Wendling Quarries, Inc. Case numbers C-11-98/C-03-08.

Motion to approve the rescinding of the condition of approval by Harstad second by Cerka.

Cerka	Aye
Machacek	Absent
Harstad	Aye
Stone	Aye

Beck discussed the recodification of the Linn County Code or Ordinances.

V. APPROVAL OF MINUTES

The minutes of February 28, 2018 Board of Adjustment meeting were approved as submitted.

VI. ADJOURNMENT

The meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Herb Stone, Chair

Ande Hendricks, Recording Secretary