

LINN COUNTY PLANNING & ZONING COMMISSION

MINUTES

Monday, April 15th, 2019

The Linn County Planning and Zoning Commission meeting was called to order at 6:30 p.m. by Chair, Christine Landa. The meeting was held in the Jean Oxley Public Service Center Board Room, 935 2nd Street SW, Cedar Rapids, Iowa.

QUORUM DETERMINED:

PRESENT:

Christine Landa, Chair	2020
H. Frank Bellon, Vice-Chair	2021
George Maxwell	2020
Sheila Gatewood	2020
Curt Eilers	2022

ABSENT: R.J. Carson 2023
Ted Grenis 2019

STAFF: Les Beck, Director
Mike Tertinger, Planner I
Jessica Black, Recording Secretary

See attendance sheet for community sign in.

APPROVAL OF MINUTES

The minutes of the March 18, 2019 Planning & Zoning Commission meeting were approved as submitted.

CONSENT AGENDA

JF19-0001 Robertson Farm First Addition Final Plat

Motion by Maxwell to approve the consent agenda, subject to the conditions of the staff reports. Second by Bellon.

Grenis	Absent
Bellon	Aye
Gatewood	Aye
Eilers	Aye
Landa	Aye
Carson	Absent
Maxwell	Aye

This applicant is requesting a Conditional Use Permit for an animal rescue business. Hercules Haven is a 501(c)(3) non-profit whose mission is to “provide compassionate care for neglected or unwanted farm animals and to offer area residents therapeutic interaction and educational opportunities with the animals” under their care. The types of animals to be sheltered at this location include hogs, mini-pigs, horses, goats, sheep, chickens, and a few cats, & dogs. The applicants desire to host open barn days, youth groups, classrooms, adults seeking respite, summer day camps, bonfires, family renewal tours, therapeutic experiences, volunteer trainings, and fundraising events.

It appears that the proposal meets all of the standards for approval for Conditional Use Permits in Article IV, Section 107-73, § (4) of the Linn County Unified Development Code. Other development standards include requirements for a major site plan, and a requirement for the site to have access to a hard-surfaced road of sufficient capacity to accommodate traffic that the use will generate. The proposal meets the parking standards found in Article V, Section 107-93, § (e).

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

Gatewood wondered what classified a pig as “mini”. Tertinger referred her back to the applicant.

Doug Brain, 1540 Midland Ct, and Alison Stone, applicant, offered to answer any questions from the Board. Brain explained that per Iowa DNR, the proposed portable wash stations and portable toilets are sufficient. He stated that the homeowners are currently working with the DNR to meet all conditions. Stone explained that a “mini-pig” is any pig less than 300 lbs.

Kim Donaldson, 3102 Springville Rd, expressed her concern for livestock on surrounding properties; she wondered what vaccination protocol the Stone’s followed. Stone explained that they take all animals to Anamosa Veterinary Clinic and vaccinate based on their recommendations.

Motion by Bellon to recommend approval of case JC19-0007, subject to the conditions of the staff report. Second by Maxwell.

Maxwell	Aye
Carson	Absent
Landa	Aye
Eilers	Aye

Gatewood	Aye
Bellon	Aye
Grenis	Absent

**JC19-0005 Jason Smith & Diane Wellman-Smith, Owners Conditional Use -
Home Occupation**

Les Beck presented the staff report.

The applicant is requesting a Conditional Home Occupation for a concrete construction business. This is a new application as a “major modification” to a Conditional Home Occupation permit, Case C-01-10, approved in 2010. The applicant is currently using nearly 10,000 sq. ft. of space in four existing accessory buildings, and has 8 nonresident employees, four of whom come to the site on a daily basis.

For a parcel of this size, the Conditional Home Occupation regulations allow up to 1,000 square feet for business usage and a maximum two nonresident employees on site at any one time. The proposal does not conform to the standards for approval in Article VI, Section 107-113, § (h) of the Linn County Unified Development Code.

Staff recommends denial of the Conditional Home Occupation permit.

NOTE: If the Board of Adjustment approves the current application, it will supersede the 2010 Conditional Home Occupation permit. Because this is a new application, should the Board disapprove the current application the 2010 Conditional Home Occupation permit becomes invalid. The applicant may request to withdraw the current application prior to final action by the Board of Adjustment, and maintain the Conditional Home Occupation permit granted in 2010. If so, the applicant will be required to prepare a plan of action and timeline, approved by the Planning & Development Department, to bring the home occupation into compliance with the conditions of the 2010 permit.

Bellon wondered if increasing the size of the Smith’s parcel would help them to come into compliance with code. Beck explained that the amount of square footage used for the Smiths’ business storage exceeds the maximum allowable on any parcel.

Maxwell commented that the property is well taken care of.

John C. Wagner, the Smiths’ attorney, spoke on behalf of Jason & Diane Smith. He explained that the Smiths moved to the property in 2007 and have since built a new home, gazebo and outbuildings. He added that the couple has received dozens of compliments regarding the upkeep of the property. He insisted that only some of the existing accessory structures were used for business storage and others were used for only personal. Wagner informed the board that Jason Smith’s concrete construction business employed eight people, four of whom come to his home daily to pick up a work truck and take it to the job site. Wagner explained that no business

was actually taking place on the property. He added that many surrounding property owners were supportive of Jason & Diane Smith's concrete business.

Bellon said he visited the site and it appeared to be immaculately well kept. He expressed concern for the precedent that may potentially be set by approving the Conditional Use Home Occupation Permit. He also wondered why misleading information was given when Smith originally obtained building permits for accessory structures.

Wagner insisted there was some ambiguity regarding whether or not Smith was running a business out of his home when he submitted the building permit applications.

Landa wondered if there are any vehicles parked outside of the accessory structures on the property. Wagner said no, mostly for security reasons.

Bellon asked Beck if the property was monitored annually. Beck mentioned an acknowledgement that was recently sent out, stating that the county is aware Jason Smith's business is still in operation. He said the Zoning Inspector has visited property, but added that it is no easy task as Mr. Smith insists he be present for all visits. Beck added that each time Smith applied for a building permit, he stated on the application that the building would not be for commercial use. Documentation for all four accessory structures lists them for personal use.

Wagner insisted that Jason Smith hadn't been contacted by anyone from the county for a period of nine years. Beck argued that Planning & Development has a signed acknowledgement on file from 2015.

Maxwell wondered what options were available for Smith to come into compliance with current code. Beck stated Smith would need to either reduce the amount of square footage used for his business to 1000 square feet or find a suitable commercial location.

Wagner insisted moving or reducing square footage would put Smith out of business.

Bellon wondered if the Board of Adjustment had authority to exceed standards listed in Unified Development Code. Beck explained that the Board of Adjustment will first need to approve the related Variance case to allow the Smiths to exceed the maximum allowable square footage. If approved, the Board will proceed onto the Conditional Use Home Occupation Permit. However, if the Variance were denied, the Conditional Use Home Occupation Permit would be essentially moot.

Lastly, Wagner added that Jason Smith pays health, vision and dental insurance for all eight of his employees, citing that one of his employees is African American, thus promoting diversity within the county. Wagner concluded his statement by asking the commission to review this case as an empathetic human, rather than a "machine".

Bellon asked Smith what kind of economic impact meeting the county's requirements would have on his business. Smith said he would have to start over, adding that he is too old to start over.

Motion by Bellon to recommend approval of case JC19-0005, subject to the conditions of the staff report. Second by Eilers.

Maxwell	Aye
Carson	Absent
Landa	Aye
Eilers	Aye
Gatewood	Aye
Bellon	Aye
Grenis	Absent

OTHER BUSINESS

COMMISSION COMMENTS

STAFF COMMENTS

PUBLIC COMMENTS

ADJOURNMENT

The meeting was adjourned at 7:42 p.m.

Respectfully submitted,

Christine Landa, Chair

Jessica Black, Recording Secretary