

Jefferson County Planning & Zoning Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of Planning Commission

Meeting of February 22nd, 2021

**The below Minutes are a summation of the meeting that took place VIA ZOOM*

Item 1. Call to Order.

Item 2. Approval of the Agenda

Secretary Scherer moved to accept the agenda as presented and Commissioner Rudolph seconded.

Votes were taken by Ayes and Nays as follows:

Paul Johnson Chairman	Matt Scherer Secretary	Stephen Phillips	Gale Rudolph	Tim Benyshek	Vacant	Vacant
DNV	Aye	Aye	Aye	Aye	--	--

Motion Passed 4-0

Item 3. Roll Call

Paul Johnson Chairman	Matt Scherer Secretary	Stephen Phillips	Gale Rudolph	Tim Benyshek	Vacant	Vacant
Present	Present	Present	Present	Present	--	--

Item 4. Approval of the January 25th, 2021 meeting minutes

Chairman Johnson asked if there were any corrections for the minutes. Chairman Johnson asked for a motion to approve the minutes. Secretary Scherer moved to approve the minutes as presented and Commissioner Phillips seconded.

Votes were taken by Ayes and Nays as follows:

Paul Johnson Chairman	Matt Scherer Secretary	Stephen Phillips	Gale Rudolph	Tim Benyshek	Vacant	Vacant
DNV	Aye	Aye	Aye	Aye	--	--

Motion Passed 4-0

Item 5. Public Hearing

Chairman Johnson explained the commission meetings procedures to the public and opened the public hearing.

Chairman Johnson asked if anyone had ex parte communications with someone involved in the case or if a member has a potential conflict of interest regarding this case. No one had.

Z2021-01: A request to consider a change in zoning from Rural Residential to Agricultural (to facilitate an associated Ag Split application) at property located at 19152 Wise Rd, Atchison, KS 66002. This request is brought by owners Mark and Carleita Domann located at 19152 Wise Rd, Atchison, KS 66002.

Chairman Johnson asked staff to give their report. Staff gave their report. After giving their report, Chairman Johnson asked the board if they had any questions for staff.

Chairman Johnson: Any further questions by commissioners at this point? If not, is the applicant on the line? Yes, Ok. Would the applicant like to comment or add or subtract from the staff report at this point?

Mark Domann (Applicant): No, it sounded just about exactly like what I wanted it to sound like. I will, I will add that the only reason that parcel was ever split to begin with, that's been in my family for 100 years, that was two 80-acre tracks originally. The only reason it ever got split the way it was split was because of a divorce back in the 1980s, and when I purchased the property, I did not know that I couldn't sell the house off of it without selling the 33 acres and obviously, I didn't want to do that. So, the only way I could do it was to put it back into two 80-acre tracks, and then go through this process. I just, I just wanted to be able to sell the house off of it. I don't want to sell the farm ground. So that's all I have.

Chairman Johnson: Do we have anyone else on the line? So, we don't. There's no one else to speak in favor of that application. And apparently, there's no one else on the line that would speak to oppose the application. And unless the applicant has anything else to offer at this point, I'll ask the planning commissioners if they have any specific questions for the applicant at this point. Or any questions for staff at this point? Hard to tell here but it seems we do not have further questions for the applicant or the staff. So be that as it may, then I'll close the public hearing portion of this case and ask if there are any final thoughts or questions by commissioners for staff at this point.

Chairman Johnson: Tim?

Commissioner Benyshek: I was just going to say that I have no further questions, but maybe I'm jumping the gun here, but I was going to recommend approval for Z2021-01 or move to approve, sorry.

Secretary Scherer: This is Matt. I second.

Chairman Johnson: Any further comments or questions by commissioners for this case? Seeing none, all those in favor say aye.

Votes were taken by Ayes and Nays as follows:

Paul Johnson Chairman	Matt Scherer Secretary	Stephen Phillips	Gale Rudolph	Tim Benyshek	Vacant	Vacant
DNV	Aye	Aye	Aye	Aye	--	--

Motion passed 4-0

Item 6. Public Comment: There was none

Item 7. Old business:

Staff reported that the County Commission had met that day and approved all the January Planning Commission cases as recommended. Staff also reported on the 2020 Building Permit report that was presented to the County Commission, with information as follows:

- The number of permits issued for dwellings in 2020 was the highest since before the 2008 recession.
- The highest number of permits in 2020 were issued for accessory structures followed by dwellings.
- In 2020, the highest permit activity was in the 3rd quarter, followed by the 2nd quarter, which were the first two quarters of the global pandemic.

Secretary Scherer mentioned that he thought there used to be a semi-official requirement that applicants be present for the public hearing on their case, and said that the Planning Commission may have adopted a policy or bylaws not to consider an application if the applicant wasn't present. Staff said they would investigate this and report back to the Commission.

Item 8. New Business:

Chairman Johnson: So, there's no more old business or general staff report. Let's move on to new business. And I need to start by saying that I was truly impressed with your plan compatibility report. And, you know, the detail that you gave about where we're at with the comp plan where we, how it synced or didn't sync with our zoning and subdivision regulations. I think just some stellar key questions that we need to be asking now as we move into the next stage.

Item I. Jefferson County KS Comprehensive Plan 2021 Review.

Before staff began the presentation, *Commissioner Rudolph* asked if the presentation could be shared so she would know whether to take notes. Staff forwarded the presentation notes to all Commissioners.

Kelly Woodward (Staff) presented an interactive presentation for the Plan Compatibility Report, offering the Planning Commissioners the opportunity to ask questions or make comments during the presentation. Highlights of the report and comments follow.

Staff began with a brief history of the current Comprehensive Plan, Zoning Regulations, and Subdivision Regulations. The remainder of the report focused on the compatibility analysis of current regulations with the current plan. Staff noted this was not meant to be exhaustive in terms of recommendations, but just a first look at the existing plan and regulations. Other topics may be considered as the process moves forward, but there is some good content in the current plan.

Staff noted that plans are intended to be decision-making guides and are not regulatory in nature. Regulations are only one tool for implementing the plan. Other tools include administrative actions and strategic projects. As community vision evolves, regulations must also evolve. Regulations implement the plan incrementally as new development occurs. Therefore, change brings the plan to life. Development regulations can never anticipate all change, and therefore some flexibility should be built into the decision process. Discretionary decisions should be tied to the intent and vision of the plan.

Staff noted that while there are 11 base zoning districts and 3 overlay zoning districts, most land in the county is classified as agricultural or rural residential. Planned districts, which are tied to the Commercial Industrial map, are meant to add flexibility for approval of large projects but are not widely utilized. The more frequently used process is the Conditional Use Permit.

After staff introduced the zoning regulations, *Chairman Johnson* provided background information about the former consultant's perspective on using the Conditional Use permit process to evaluate all future development, and noted it was

stated that this process applied to the specific permit and had to be reestablished with an ownership change. Whereas the planned districts are those essentially locked in for commercial or industrial development. Staff said that Conditional Use permits generally run with the land, and they may not be tied to a specific owner but are tied to a specific use. So, if the property changed ownership, and the new owner followed the approved development plan and all conditions of approval, a new Conditional Use Permit may not be required.

Staff mentioned that performance regulations and specific use standards create another layer of regulations. There are discretionary decision criteria for variances and special exceptions.

Chairman Johnson asked if there is a map of the conditional use permits in Jefferson County. Staff responded there is a table that needs to be updated to reflect which ones are current. Chairman Johnson asked if there is a time limit for these uses, and staff responded there is no current limit. Chairman Johnson confirmed that the Planning Commission could recommend an expiration date for specific conditional uses during the approval process and staff agreed that could be a condition of approval.

Staff introduced the Subdivision Regulations and the options for land divisions.

The first recommendation noted by staff was to update or add intent and purpose statements to some sections of the regulations to guide discretionary decisions and further the vision of the Comprehensive Plan. It was also suggested that current decision criteria and specific use standards be reviewed to ensure compatibility with the plan.

Chairman Johnson asked exactly what a purpose statement is. Staff characterized this as what the process is intended to accomplish. It is a basis for decisions, and if there are questions during the process, then the decision could be evaluated per the intent and purpose statements of that section to see if stated goals and objectives were furthered.

Chairman Johnson asked if this is what comes out when we try and define the philosophy or the comprehensive land use plan. Staff agreed.

Staff reiterated the Comprehensive Plan recommendation to do a more extensive natural resource inventory to create a more specific and comprehensive database of features for preservation and protection. This information could be used to create zoning overlay districts, performance standards or development review criteria.

Chairman Johnson asked who would be involved in the resource inventory and options were discussed.

Regulatory implementation of the Land Evaluation and Site Assessment (LESA) system was discussed in relation to farmland preservation, including benefits of the system. Staff recommended using soil data to help define future land use and preservation areas; clarifying the applicability of LESA to the evaluation of rural residential development; performing sample analyses and finetuning the criteria to local context, and adding this analysis to the regulations as part of development review.

Chairman Johnson clarified that the LESA system is not built into the zoning and subdivision regulations and suggested that the Commission should consider various types and levels of agriculture and determine more distinctions of what we call farming. He suggested particular care for fertile bottomland and specialty farming options. He also noted Douglas County is considering use of the LESA system.

Staff presented an example future land use map from Shawnee County and discussed how the future land use designations help provide clarity for decision-makers as well as potential purchasers of property for the type of development that is desirable in different areas. This would help increase confidence in applying for specific land uses in a particular location. These future land use designations would be advisory, but the designations would be related to one or more applicable zoning districts and would guide rezoning decisions.

Chairman Johnson noted the tension regarding development between Topeka and Shawnee County, and the battles over expansion and lack of unified government approach. Staff added that the County should discuss how to coordinate with cities in the plan updates.

Chairman Johnson asked whether the future land use map is advisory or regulatory. Staff noted the future land use map is not a zoning district, thus not regulatory. However, each future land use may be associated with one or more appropriate zoning districts to help determine if rezoning requests are compatible with the plan.

Staff suggested the Commission could consider whether more than one type of agricultural zoning district would be beneficial, such as adding a new agricultural zoning district with smaller minimum lot size, and implementing maximum residential lot size to help limit the number and impact of nonfarm parcels allowed.

Staff suggested that the Commission work to identify specific areas for small-lot rural residential development and discussed the plan's vision and cautions regarding this type of development. Images from a couple of existing subdivisions in the County were shown.

Chairman Johnson discussed the former Zoning Administrator's thoughts regarding dividing the County into thirds with different definitions of working farms based on location. He then said that cluster development should be taken seriously for incorporating both open space or farm preservation and smaller lots, but a barrier is community septic systems that are run by homeowner associations and when the systems fail it falls to the County to remedy it. He mentioned creating retirement communities and more affordable housing options. Staff discussed a particular development targeted to those who want maintenance-provided housing, and suggested a housing study for ideas to accommodate options.

Staff recommended that the Commission discuss the required level of urban services for new subdivisions, and noted the County has a 1997 resolution that establishes minimum construction standards for roads in subdivisions. However, staff noted such regulations should really be included in the subdivision regulations.

Staff presented a map of vacant parcels under 40 acres and suggested further study of existing lots available for development, along with factors limiting development. This study should include local experts such as realtors, homeowner associations and others who could assist in formulating a strategy. The County Land Bank may also be useful in a strategy for underutilized lots.

Chairman Johnson asked about the compatibility of the Comprehensive Plan with the Perry Lake Plan update process. Staff suggested discussing input for specific projects for the Perry Lake Plan at the next meeting. Chairman Johnson asked if the development lots at Perry Lake are privately owned, and if the County could obtain some land around Perry Lake. Staff was skeptical about the Corp relinquishing ownership, but mentioned potential partnerships for specific uses there. Staff said that the Corp will decide on any potential uses, based on the primary purpose of the lake as a water reservoir, with recreational uses considered secondary. Commissioner Scherer confirmed the main purpose of Perry Lake is flood prevention, public water storage and also maintenance of flows in the Kansas River for water quality purposes. Silting was discussed.

Staff presented information and examples of types of subdivisions and regulations that require open space dedication as part of the platting process. Benefits and limitations were discussed.

Staff suggested that the regulations could require Environmental Impact Statements for major developments such as industrial agriculture and large residential subdivisions. Chairman Johnson noted difficulty per Kansas law in regulating industrial agriculture and urged caution.

Staff suggested implementation of transitional buffers based on the intensities of adjacent land uses, and other methods to ensure development compatibility, noting flexibility should be built in for case-by-case assessments. Chairman Johnson expressed skepticism about such strategies in relation to right-to-farm laws in Kansas. Staff noted that there would be Attorney review of all recommended regulations.

Staff recommended simplifying the permitting of complementary agricultural uses supported by the Comprehensive plan on working farms, such as farm stays and other agritourism uses and retail greenhouses. These uses could be permitted by right subject to specific use or performance standards so that applicants would not need to go through the Conditional Use Permit approval process.

Staff discussed a recommendation to review the triggers for amending Conditional Use Permits. Some minor changes may be acceptable without revising the Conditional Use Permit; the regulations may identify other more substantial changes that would require a Conditional Use Permit amendment.

Staff recommended an amendment to the regulations making the minimum lot size in the Suburban Residential district 2 acres instead of 1 acre to align with the current Health Department regulations for onsite wastewater systems, or even 3 acres to align with regulations for raising animals on small lots.

The Commission discussed future plan review activities and strategies for the plan update process. This will be discussed at the March meeting.

Secretary Scherer noted this will be a lot of work and appreciated everyone’s efforts but said it is best not to go too fast so that we don’t miss something with all these issues.

Commissioner Rudolph liked the idea of being able to take one suggestion at a time and research other Comprehensive Plans to see what best fits situations in our area.

Chairman Johnson was impressed with laying the groundwork for the right questions and wants to identify key stakeholders and figure out how to get various players to the table. He said we can be a great service to this county if we can truly understand what’s motivating people to be in Jefferson County and how to accommodate them.

Item II. Consider initiation of amendments to the Jefferson County Zoning Regulations pertaining to the issuance of zoning certificates/building permits.

Commissioner Phillips moved to table it until the March meeting and Commissioner Rudolph seconded the motion.

Votes were taken by Ayes and Nays as follows:

Paul Johnson <i>Chairman</i>	Matt Scherer <i>Secretary</i>	Stephen Phillips	Gale Rudolph	Tim Benyshek	Vacant	Vacant
DNV	Aye	Aye	Aye	Aye	--	--

Motion passed 4-0

Commissioner Benyshek moved to adjourn the meeting. Commissioner Rudolph seconded.

Item 9. Adjournment – 9:03 PM

Minutes taken by: 
Erin George

Approved: 3-22-2021
Date

Chairman: 
Paul Johnson

Secretary: 
Matt Scherer III