JOHNSON COUNTY PLANNING AND ZONING COMMISSION

REGULAR MEETING-TUESDAY, JULY 2, 2019

Vice-Chairman Julie Baker called the meeting of the Johnson County Planning and Zoning Commission to order July 2, 2019 at 7:00 PM.

Those present were Commission members Manny Rodriguez, Layne Qualm and Curt Newcomb, Planner Jim Waller, Vicki Edelman County Clerk, Bill Novotny Johnson County Commission Chairman, and Deputy County Attorney Barry Crago. Chairman Travis Pearson was absent from this meeting.

Curt Newcomb moved to approve the minutes of the June 4, 2019 regular meeting. Layne Qualm seconded, motion carried.

The Commission agreed there were no modifications to the Agenda and approved it as presented.

Vice-Chairman Baker opened the public hearing on the Dave Loden Minor Subdivision Draft Final Plat.

Planner Waller presented the following report to the Commission regarding the Dave Loden Minor Subdivision Draft Final Plat:

Case: MS-2019-002

Item: Dave Loden Minor Subdivision (2.97+ Ac into 2 lots)

Applicant: David and Cynthia Loden

Summary: Minor Subdivision Draft Final Plat

Background Information:

1. Proposed subdivision is located west of Buffalo at 400 Hemlock St.
3. The petitioner desires to split the 2.97 Acres into 2 lots. Lots sizes 1.25 acres and 1.72 acres.
   a. Property is described as Lot 3 Big Horn Estates as platted in 1978.
   b. The existing lot has a commercial shop and a residential duplex unit.
4. The proposed lot sizes are consistent with other re-subdivisions in the Big Horn Estates.
5. The current water and sewer is provided from an existing well and septic tank/leachfield. These services are shared between each building.
6. Property has two (2) existing easements along the south and west boundary.

Planning Considerations:

1. Application Submittal
   a. Application submitted as a minor subdivision and is located along a public road as platted and shown on the Big Horn Estates subdivision plat. The proposal is a resubdivision of a platted lot. The type of division is consistent with previous lot splits within Big Horn Estates. It should be noted, in the future, minor subdivision rules will only be allowed for
use in subdivisions where the total lot count is less than 5. If the division creates more
than 5 lots total including the original subdivision, then the major subdivision rules must
be followed.

2. Notification and Advertisements
   a. Public Notice; 2 consecutive notices in the newspaper; affidavit of publication received.
      Adjacent landowners notified according to the Minor Subdivision Regulations.
   b. Does this division have any impact on the rest of the Big Horn Estates or on users of
      Hemlock Street?
      i. Comments received from 3 owners along Hemlock St. Concerns that other lot
         owners not being notified or out of state owners whom do not receive the Buffalo
         newspaper.

3. Soils and Flooding Potential
   a. Clear Creek Conservation District provided soil review of proposed subdivision as per
      county regulations and state law.
   b. Soils limitations disclosed under the Plat Warnings. No severe limiting features
      identified.

4. Easements/Access
   a. Existing Road is a 60 feet ROW and is platted and dedicated to the public.
   b. Road maintenance subject to existing recorded agreement in Book 86A59 page 629-630.
      i. Road Maintenance issues; may need to modify maintenance agreement from
         2005.

5. Lot Size
   a. The proposed lot size is 1.25 Acres and 1.72 Acres. The Plat identifies existing well and
      area surrounding the existing septic leachfield/tank and sewer that is common.
      i. Operation and Maintenance Agreement drafted for common elements to
         subdivided lots.

6. Final Plat Contents
   a. As presented the draft plat and application appear consistent with minor subdivision
      regulations.
      i. Checklist submitted, and Fees paid;
      ii. Water and Septic maintenance agreement drafted
         1. Easements shown on plat for location;
         2. Agreement has exhibit with map and reference to subdivision and legal
            description.
      iii. Covenants and Amended Covenants disclosed
      iv. All easements are shown as access & utility easements
      v. Septic permitted in 2011 as Permit # 31011
      vi. Well permitted as P479754.0W

7. Other Approvals
   a. City Approval received according to the Lot Split regulations with the City of Buffalo;
      Plat signed by the appropriate city officials.

8. Other considerations by the Commission
   a. Hear comments from Public in attendance.
   b. Discuss concerns received pertaining Road & Drainage, Infrastructure to protect health
      and safety of future residents, and further subdividing.

Recommendations:

1. It is recommended that the subdivision plat be approved contingent upon hearing comments.
a. All documentation (Agreement for Sewer & Water) needs to be in recordable form.  
2. Recommendation is forwarded to County Commissioners for final consideration.  
3. OTHER

James G. Waller

Planner Waller again stated there are concerns about smaller lots, over-crowding, devalue of property, not surveying all the land owners in Big Horn Estates and well and septic issues.

There were no questions from the Commission on the staff report, no rebuttal to the staff report from Dave Loden and no questions from the Commission on the written comments received in this matter.

Vice-Chairman Baker called for a time of public comment. Rick Woodland, Johanna Taylor, Catherine Hokanson and Alice Shelton voiced their concerns over water issues, setting a precedent on splitting lots, wells and septic issues, road issues. Dave Loden stated the covenants could be amended to say there could be no further sub-dividing Big Horn Estates and that would eliminate the issues similar to Richardson Park.

The public hearing in this matter closed at 7:50pm with no further questions on the draft plat.

There being no further discussion, Curt Newcomb moved to approve the Dave Loden Minor Subdivision Plat as presented, require the supporting documents to be in recordable form and forward to the Board of County Commissioners for final consideration. Manny Rodriguez seconded, motion carried.

Vice-Chairman Baker called for presentation of the next agenda item-Re-subdivision of Lot 7-9 Bald Ridge Estates.

Planner Waller presented the following staff report to the Commission:

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<th>Case:</th>
<th>RE-SUB 2019-001</th>
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<tr>
<td>Item:</td>
<td>Lisa Norman proposed resubdivision</td>
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<td>Summary:</td>
<td>Resubdivision of Lot 7-9 Bald Ridge Estates</td>
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**Background information:**

1. Proposed resubdivision located off of Bald Ridge Dr (Bald Ridge Estates).
2. Owner of record; Lisa Norman as filed Book 87A61 page 618 (6.5 Ac). This parcel is described as Lot 9 Bald Ridge Subdivision.
3. Owner of record, Swish Properties (Bald Ridge Developer). This lot is vacant and is described as Lot 8 Bald Ridge Subdivision.
4. Owner of record, Galen Richards and Suzie Kirvinskee Trustees of the Richards Kirvinskee Family Irrevocable Trust, dated December 1, 2015 as filed in Book 87A67 page 388 (5.1 Ac). This parcel is vacant and is described as Lot 7 Bald Ridge Subdivision.
5. The three lots are all adjacent and Lot 8 is being proposed to be split between Lot 7 and 9.
6. June 4, 2019 it was determined that resubdivision is applicable and a new plat required along with notices.
7. Lisa Norman is under Contract to purchase Lot 8.
8. DEQ/WQD placed restrictions on depth and location of leachfields; restrictions are shown on the original plat and disclosed on re-subdivision plat.
9. DEQ/WQD placed restrictions on well locations and depths; restrictions and warnings shown on the original plat and disclosed on the re-subdivision plat.

Planning Considerations:

1. Notification and Advertisements
   a. Public notice; 2 consecutive notices in the newspaper; affidavit of publication pending.
   b. Adjacent landowners notified according to the Minor Subdivision Regulations.

2. Size of lots proposed;
   a. Originally the lots are 5.1, 5.1, & 6.5 acres respectively;
   b. Redividing the 3 lots will create 2 lots of 7.6 & 9.0 acres.

3. Soils and Flooding Potential
   a. Lake DeSmet Conservation District provided a review and recommendation on May 24, 2007.
      i. All soil limitations identified on the original final plat shown on resubdivision plat.
      ii. Decreasing density should lessen disturbances by eliminating a house site.

4. Septic system and Water well placement;
   a. Original Hydrology review applicable to resubdivision. DEQ/WQD comments stand from the original review in 2007. No changes needed to letter of recommendation from DEQ as this is a reduction in density.
      i. Well and septic restrictions still applicable.
      ii. Warnings noted on the plat
   b. Increasing the lot size will allow for more property line separation and lessen conflicts with well and septic/leachfield separations
   c. Lot 9 has an existing septic and well—Septic Permit # 9814 AND Well Permit #P202665.0W

5. State Engineer’s Office
   a. Generally, water rights were reviewed during the subdivision review in 2007.
      i. No surface water rights were identified on the subject lands
      ii. Additional water well information required to be disclosed on the original subdivision plat.
   b. Decreasing density (less houses) lessen possible well conflicts.
      i. It was noted by the State Engineer’s Office, they are generally supportive of approving the development at the time. However, they advised that any number of events could occur at some point in the future which may preclude the state from issuing new permits.

6. Access and utility easements and lot line shown on the new plat.
   a. Bald Ridge Drive is not changing from the original plat.
   b. Utility easements are reserved along the lot lines and is not changing from the original plat.
   c. Original lot lines shown as a lighter grey. Do these lines need identified as vacated?

7. Plat Contents
   a. Discrepancies in the written legal description for Lot 7A versus the descriptions shown along Bald Ridge Dr.
      i. Slight differences between record information from 2007 and today. Record information should be identified as (R) with bearing and distance.
      ii. Summary information of Area and lots under the title in left hand corner similar to original plat.
   b. Drainage easement should be shown from original plat along west side of Lot 7a.
c. Building free envelope shown on original plat with description, should be same on new plat.
d. Does owner of record need to reference the official name? Richard and Kirvinskee own Lot 7 as a Revocable Family Trust.

Recommendations:

1. Approve applicant to pursue final plat for the August meeting. Subject to the following:
   a. Plat must conform to the original plat and follow the identified missing contents under Planning Considerations above.
2. Others

Planner Waller also reported Lisa Norman will close on the property and then do the split of lot 8.

After discussion among the Commission, Manny Rodriguez moved to allow the applicant to pursue final plat for the August meeting subject to the new plat conforming to the original plat and the identified missing information be included on the re-subdivision plat. Curt Newcomb seconded, motion carried.

Vice-Chairman Baker called for the next agenda item being the possible boundary line adjustment between Lot 4 and 5 of the Lake Meadows Subdivision.
Planner Waller reported the landowner who purchased lot 5 drilled the well on lot 4 and wants to move the lot line approximately 19ft to incorporate his well onto his property. If the Commission agrees they would submit an affidavit and survey at the August meeting.

Layne Qualm moved to allow them to proceed with the boundary line adjustment process. Curt Newcomb seconded. Attorney Crago stated if they do the boundary line adjustment, they need to require an amended plat, 24" x 36" on mylar so the subdivision information in the clerk's office is accurate. He also stated the land owners within the subdivision should be notified especially if there are covenants. He also advised an easement could contract away all liability. Layne Qualm withdrew the motion.

After further discussion Curt Newcomb moved to allow the lots to be re-subdivided and notify all adjacent land owners. Manny Rodriguez seconded, motion carried. Planner Waller and Attorney Crago will set up a time to meet with the owners of Lot 4 and 5 and discuss the possibility of an easement.

There being no old business and no public comments Vice-Chairman Julie Baker asked for the Staff Report.

Planner Waller reported he and Attorney Crago will be actively pursuing septic permit violations in the county. He also restated his concerns with Richardson Park and at some point, the issue of wells and septic systems is going to have to be dealt with.

Curt Newcomb stated Big Horn Estates could control their growth and development by changing their covenants and then enforcing them.

The next meeting will be on August 6, 2019 with a work session beginning at 6:00pm and the regular meeting to be at 7:00pm.
There being no further business Curt Newcomb moved to adjourn the meeting at 8:40 P.M. Manny Rodriguez seconded, motion carried.

Respectfully,

[Signature]
Julie Baker, Vice-Chairman

[Date]
8/6/19

Attest:
Vicki Edelman, County Clerk