

# STORY COUNTY PLANNING AND ZONING

STORY COUNTY ADMINISTRATION  
900 6<sup>TH</sup> STREET  
NEVADA, IOWA 50201-2087

515-382-7245



"Commitment, Vision, Balance"

## MINUTES STORY COUNTY BOARD OF ADJUSTMENT

<b>DATE:</b> March 6, 2013	David Miller, Chair	2015
	*Stephen McGill, Vice Chair	2012
<b>CALL TO ORDER:</b> 6:00 p.m.	Victoria Feilmeyer	2014
<b>PLACE:</b> Public Meeting Room, 2 <sup>nd</sup> Floor Administration Building	Lynn Scarlett	2013
	Aaron Steele	2016
<b>ADJOURNMENT:</b> 7:10 p.m.	(*) Absent	

**PUBLIC PRESENT:** Andrew Allen, Elliot Thompson, Hollie Allen, Bradley Wargol, Wayne Messer

**STAFF PRESENT:**

Leanne Harter, Planning and Development Director; Ryan Newstrom, Planner

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**APPROVAL OF AGENDA (MCU)**

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**APPROVAL OF MINUTES (MCU)**

January 30, 2013

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**PUBLIC COMMENTS: Opened 6:04 p.m. - Closed 6:04 p.m.**

None

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**OLD BUSINESS:**

NONE

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**NEW BUSINESS:**

7. I CUP01-13 Allen Conditional Use Permit

**Applicant:** Andrew and Hollie Allen

**Nature of Request:** Conditional Use Permit to operate a preschool in the A-1, Agricultural zoning district.

**Staff Member:** Ryan Newstrom

**Parcel Number:** 13-13-350-315

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**STAFF PRESENTATION:**

Mr. Newstrom presented the vicinity map, proposed development as submitted, standards of approval, provided site shots, and covered the dates of legal notification and publication requirements. Mr. Newstrom gave an overview of the planned entrance and exit of the proposed childcare center location.

Mr. Newstrom outlined the Conceptual and Interagency Reviews completed by the Interagency Review Team and reviewed submitted comments.

Mr. Newstrom presented site shots of the property and reviewed the applicable standards for approval for the Board to consider in reviewing the proposed conditional use permit.

Mr. Newstrom outlined the recommendation from the Planning and Zoning Commission from February 4, 2013, which was to recommend approval with the following conditions:

1. No Conditional Use Permit shall be issued prior to receiving a certificate of occupancy from the State Fire Marshal.
2. No parking or stopping on Timberlane Drive pending resolution with the County Engineer on the parking and traffic issue.
3. The Board of Adjustment shall review the permit after one (1) year from approval to monitor any issues with traffic during load-in and load-out and adjust or revoke the permit accordingly. They will also determine at that time if any further review shall be necessary in the future.

Mr. Newstrom presented the Board with four (4) alternatives:

1. The Story County Board of Adjustment approves the conditional use permit request, as put forth in case CUP01-13.
2. The Story County Board of Adjustment approves the conditional use permit request, as put forth in case CUP01-13, with conditions.
3. The Story County Board of Adjustment denies the conditional use permit request, as put forth in case CUP01-13.
4. The Story County Board of Adjustment remands the conditional use permit request, as put forth in case CUP01-13, back to the applicant for additional information and further consideration.

Mr. Newstrom read into the record a comment submitted by a citizen against the approval of the proposed Conditional Use Permit.

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#### **BOARD COMMENTS:**

Mr. Aaron Steele questioned whether Huxley offered additional comments beyond that shared with the County Engineer. Mr. Newstrom noted the agreement reached between the City of Huxley and the applicant which would allow the existence of the child care center if ever annexed.

Mr. Steele asked whether staff knew the zoning that would potentially be applied upon annexation. Mr. Newstrom replied he was not aware of the specific designation.

Ms. Lynn Scarlett requested that staff demonstrated the location of the property owner who submitted the written comments. Mr. Newstrom demonstrated such.

Mr. Steele asked what the parking regulations and limitations were on the street that t's into Timberlane Drive. Mr. Newstrom commented he was unaware of the restrictions.

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#### **APPLICANT COMMENTS:**

**Mr. Andrew Allen**

Mr. Allen explained the proposal before the Board of Adjustment and the history of Miss Hollie's Preschool. Mr. Allen indicated that the preschool has already registered 20 students.

Mr. Allen stated the plans include an ADA compliant restroom, which will be in compliance with the State Fire Marshall.

Mr. Allen explained a two phase student drop-off and pick-up proposal to mitigate issues related to parking.

Mr. Allen indicated he had spoken with some surrounding neighbors and submitted a letter for the Board's review from one indicating support for the proposed conditional use permit use.

Mr. Allen gave an overview of plans for a fence on the property to completely enclose the property. Mr. Allen stated he is very willing to work with surrounding property owners.

Mr. Allen reviewed his reasons for not wanting to be annexed into the City of Huxley. Mr. Allen gave an overview of an annexation agreement he currently has with the City of Huxley.

Ms. Victoria Feilmeyer questioned whether special events will be held at the preschool and whether the parking could accommodate such events. Mr. Allen referenced the parking lot layout drawing submitted and stated that consideration had not been given to such special events. Mr. Allen commented that the current location at the church has been working well and noted that special arrangements would be made for such an event.

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**PUBLIC COMMENT:**

**Mr. Bradley Wargo**

Mr. Wargo outlined the reasons he chose his current residential location because it was a quiet and upscale neighborhood. Mr. Wargo noted concerns regarding the safety of the children with the proximity along a busy street. Mr. Wargo further commented concerns regarding property value decreasing and traffic related to the use.

Ms. Feilmeyer questioned Mr. Wargo whether a fence along the perimeter of the property would help alleviate his concerns regarding safety. Mr. Wargo commented on the nature of the fencing and the presence of a commercial business in a non-commercial area.

**Mr. Andrew Allen**

Mr. Allen commented that he intended to address the concerns of the neighborhood and those conditions that may be placed by the Board of Adjustment. Mr. Allen noted that the school would not be opening until September 2013.

Mr. Allen stated that he was of the opinion the application satisfactorily addresses the development impacts identified in the regulations.

Ms. Scarlett asked what the existing fencing is on the site. Mr. Allen noted it is agricultural-type fencing.

Ms. Feilmeyer questioned whether a four-year old could climb and wander off the property with the existing and proposed fencing. Mr. Allen responded no and further commented that entrance onto the site through such would be limited as well.

Ms. Feilmeyer questioned how the applicant would deal with general unsafe drop-off practices. Mr. Allen responded with pointing out how it would be different than any other loading or

unloading practices.

Ms. Feilmeyer asked if it was normal practice that an employee would greet at the drop-off point to facilitate and mitigate some of the safety concerns. Mr. Allen noted that had been considered however wanted to allow opportunities for parents to escort the children into the preschool.

Ms. Feilmeyer noted that it would facilitate the quick exit of the cars.

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**BOARD DISCUSSION:**

Board members discussed the proposed Conditional Use Permit and possible conditions.

Mr. Steele noted that he had reviewed the principal permitted uses allowable in the A-1 Agricultural District and the impacts of such uses permissible by staff outright.

Ms. Feilmeyer noted she concurred with Mr. Steele's statement, and further commented that while there are legitimate concerns related to the pick-up and drop off by the neighbors, the applicant seems committed to alleviate such concerns.

Mr. Steele asked staff whether any district allowed for such child care center outright as a permitted use. Mr. Newstrom noted that the C-Commercial district would so permit.

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**MOTION: Move to adopt the Findings of Fact in the Staff Report as prepared for and presented to the Story County Board of Adjustment.**

***VOTE: Feilmeyer/Scarlett (4-0) (McGill Absent)***

Motion: Feilmeyer

Second: Scarlett

Voting Aye: Steele, Miller, Scarlett, Feilmeyer

Voting Nay: None

Not Voting: None

Absent: McGill

**MOTION: 2. The Story County Board of Adjustment approves the conditional use permit request, as put forth in case CUP01-13, subject to the three conditions as presented by staff and the requirement to provide fencing along the north property line.**

***VOTE: Feilmeyer/Steele (4-0) (McGill Absent)***

Motion: Feilmeyer

Second: Scarlett

Voting Aye: Miller, Scarlett, Feilmeyer, Steele

Voting Nay: None

Not Voting: None

Absent: McGill

**MOTION: The Story County Board of Adjustment approves the conditional use permit request, as put forth in case CUP01-13 as discussed by the Zoning Board of Adjustment and in the Staff Report prepared for and presented to the Story County Zoning Board of Adjustment finding that all applicable standards of approval will be satisfied upon the conditions listed below.**

1. No Conditional Use Permit shall be issued prior to receiving a certificate of occupancy from the State Fire Marshal.
2. No parking or stopping on Timberlane Drive pending resolution with the County Engineer

- on the parking and traffic issue.
3. The Board of Adjustment shall review the permit after one (1) year from approval to monitor any issues with traffic during load-in and load-out and adjust or revoke the permit accordingly. They will also determine at that time if any further review shall be necessary in the future.
  4. Fencing will be installed along the north property line.

**VOTE: Steele/Scarlett (4-0) (McGill Absent)**

Motion: Steele

Second: Scarlett

Voting Aye: Scarlett, Feilmeyer, Steele, Miller

Voting Nay: None

Not Voting: None

Absent: McGill

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**NEW BUSINESS:**

7. II CUP02-08.1 Vinniss Conditional Use Permit Minor Modification

**Applicant:** Steve Nissen

**Nature of Request:** Conditional Use Permit to operate Prairie Bloom Farm.

**Staff Member:** Ryan Newstrom for Charlie Dissell

**Parcel Number:** 05-17-400-300/05-17-330-245

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**STAFF PRESENTATION:**

Mr. Newstrom presented the vicinity map, proposed development as submitted, standards of approval, provided site shots, and covered the dates of legal notification and publication requirements.

Mr. Newstrom outlined the Conceptual and Interagency Reviews completed by the Interagency Review Team and reviewed submitted comments.

Mr. Newstrom presented site shots of the property and reviewed the applicable standards for approval for the Commission to consider in reviewing the proposed conditional use permit.

Mr. Newstrom presented the Board with four (4) alternatives:

1. The Story County Board of Adjustment approves the Conditional Use Permit Minor Modification as put forth in case CUP02-08.1.
  2. The Story County Board of Adjustment approves the Conditional Use Permit Minor Modification as put forth in case CUP02-08.1, with conditions.
  3. The Story County Board of Adjustment denies the Conditional Use Permit Minor Modification as put forth in case CUP02-08.1.
  4. The Story County Board of Adjustment tables the Conditional Use Permit Minor Modification as put forth in case CUP02-08.1, back to the applicant for further review and/or modifications.
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**BOARD COMMENTS:**

Mr. Miller asked for clarification for the parcels involved in the application. Ms. Harter responded with the applicable parcels.

Mr. Steele commented that by the Board's action of approving the additional parcel, the Board allowing the applicant to build whatever without seeking appropriate approvals.

Mr. Steele questioned when the building was constructed. Ms. Harter commented that the agricultural exemption was granted in 2012. Mr. Steele asked whether it had yet been used for agricultural purposes.

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**APPLICANT COMMENTS:**

Mr. Eliot Thompson outlined the proposed use of Prairie Bloom Farm in conjunction with the existing winery and use of the property.

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**PUBLIC COMMENT:**

None.

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**BOARD DISCUSSION:**

Board members discussed the proposed Conditional Use Permit modification and possible conditions.

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**MOTION: Move to adopt the Findings of Fact in the Staff Report prepared for and presented to the Story County Board of Adjustment.**

***VOTE: Feilmeyer/Steele (4-0) (McGill Absent)***

Motion: Feilmeyer

Second: Steele

Voting Aye: Steele, Miller, Scarlett, Feilmeyer

Voting Nay: None

Not Voting: None

Absent: McGill

**MOTION: Move to adopt the Decision regarding the development criteria in the Staff Report, prepared for and presented to the Story County Zoning Board of Adjustment.**

***VOTE: Feilmeyer/Steele (4-0) (McGill Absent)***

Motion: Feilmeyer

Second: Steele

Voting Aye: Miller, Scarlett, Feilmeyer, Steele

Voting Nay: None

Not Voting: None

Absent: McGill

**MOTION: Move to approve the modification as proposed by the applicant in Case No. CUP02-08.1, as discussed by the Zoning Board of Adjustment and in the Staff Report prepared for and presented to the Story County Zoning Board of Adjustment finding that all applicable standards of approval will continue to be satisfied upon the condition that the applicant applies for a zoning permit on the existing structure as its added commercial**

**use will no longer make it fall under an agricultural exemption.**

**VOTE: Scarlett/Steele (4-0) (McGill Absent)**

Motion: Scarlett

Second: Steele

Voting Aye: Scarlett, Feilmeyer, Steele, Miller

Voting Nay: None

Not Voting: None

Absent: McGill

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**OTHER BUSINESS:**

None

**BOARD COMMENTS:**

Mr. Steele commented on the nature of the agricultural exemption as outlined by the *Code of Iowa* and noted that as more small farms go direct to consumer and value-added applies, the blurring of the line between wholesale and retail will increase.

Mr. Newstrom noted that is why staff strongly suggests that the setbacks are satisfied even when not necessary.

**STAFF COMMENTS:**

None

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**ADJOURNMENT: 7:10 p.m.**

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**Approval of Minutes**

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**Title and Date**