

REQUEST FOR LEGISLATIVE ACTION

Completed by County Counselor's Office




~~Res~~ Ord No.: 5162

Sponsor(s): _____

Date: 10/8/18

EXECUTIVE OFFICE

SEP 26 2018

<p>SUBJECT</p>	<p>Action Requested <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance</p> <p>Project/Title: <u>Conditional Use Permit – Herring Road Partnership CU-2018-226</u></p>																			
<p>BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i></p>	<table border="1" data-bbox="310 495 1192 806"> <tr> <td>Amount authorized by this legislation this fiscal year:</td> <td></td> <td>\$</td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td></td> <td>\$</td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td></td> <td>\$</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td></td> <td>\$</td> </tr> <tr> <td>Source of funding (name of fund) and account code number; FROM / TO</td> <td>FROM ACCT</td> <td></td> </tr> <tr> <td></td> <td>TO ACCT</td> <td></td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> <p>OTHER FINANCIAL INFORMATION:</p> <p><input checked="" type="checkbox"/> No budget impact (no fiscal note required) <input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: _____ Estimated Use: \$ _____ Prior Year Budget (if applicable): _____ Prior Year Actual Amount Spent (if applicable): _____</p>		Amount authorized by this legislation this fiscal year:		\$	Amount previously authorized this fiscal year:		\$	Total amount authorized after this legislative action:		\$	Amount budgeted for this item * (including transfers):		\$	Source of funding (name of fund) and account code number; FROM / TO	FROM ACCT			TO ACCT	
Amount authorized by this legislation this fiscal year:		\$																		
Amount previously authorized this fiscal year:		\$																		
Total amount authorized after this legislative action:		\$																		
Amount budgeted for this item * (including transfers):		\$																		
Source of funding (name of fund) and account code number; FROM / TO	FROM ACCT																			
	TO ACCT																			
<p>PRIOR LEGISLATION</p>	<p>Prior ordinances and (date): _____</p> <p>Prior resolutions and (date): _____</p>																			
<p>CONTACT INFORMATION</p>	<p>RLA drafted by Randy Diehl, Administrator, Development Division, 881-4577</p>																			
<p>REQUEST SUMMARY</p>	<p>Requesting a Conditional use Permit for a period of 5 years for a bed and breakfast on 20.00 ± acres in District AG (Agricultural). The location is 26207 E. Herring Road, in Jackson County, Missouri, and specifically described on Attachment to RLA-1.</p> <p>The Jackson County Plan Commission on September 20, 2018 held a public hearing and accepted testimony pertaining to the Conditional Use Permit. This request conforms to the general intent and purpose of the Unified Development Code.</p> <p>Therefore, the Plan Commission voted 7 to 0 to recommend <u>APPROVAL</u> for a 5 year period provided the following conditions are met (see attachment RLA-2)</p>																			
<p>CLEARANCE</p>	<p><input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input type="checkbox"/> Business License Verified (Purchasing & Department) <input type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)</p>																			
<p>ATTACHMENTS</p>	<p>See Attachment to RLA-3</p>																			
<p>REVIEW</p>	<p>Department Director: Brian D. Gaddie, P.E. Director of Public Works </p> <p>Finance (Budget Approval): <i>If applicable</i></p> <p>Division Manager: </p> <p>County Counselor's Office: </p>	<p>Date: 9.24.18</p> <p>Date:</p> <p>Date: 9.27.18</p> <p>Date:</p>																		

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in _____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.

CU-2018-226

ATTACHMENT TO RLA 1:

Description:

All that part of the North half of Lot 2, of the Northwest Quarter of Section 19, Township 47, Range 30, Jackson County, Missouri, more particularly described as follows: Commencing of the northwest Corner of said Section 19 and said Lot 2; thence South 89 degrees 35 minutes 38 seconds East, along the North line of said Section, 40.03 feet; thence South 02 degrees 38 minutes 40 seconds West, 603.23 feet, along East line of Harris Road, to the true Point of Beginning; thence South 89 degrees 38 minutes 27 seconds East, 915.49 feet; thence South 02 degrees 47 minutes 24 seconds West, 476.55 feet, thence North 89 degrees 38 minutes 27 seconds West, 914.28 feet, to a point of the East right-of-way line of Harris Road; thence North 02 degrees 38 minutes 40 seconds East, 476.50 feet, to the Point of Beginning.

Also,

All that part of the North half of Lot 2, of the Northwest Quarter of Section 19, Township 47, Range 30, Jackson County, Missouri, more particularly described as follows: Commencing of the northwest Corner of said Section 19 and said Lot 2; thence South 89 degrees 35 minutes 38 seconds East, along the North line of said Section, 660.99 feet; thence South 02 degrees 47 Minutes 24 seconds West, 30.03 feet, to the true Point of Beginning; thence continuing South 02 degrees 47 Minutes 24 seconds West, 300.26 feet; thence South 89 degrees 35 minutes 38 seconds East, 296.03 feet; thence South 02 degrees 47 Minutes 24 seconds West, 272.26 feet; thence North 89 degrees 38 minutes 27 seconds West, 915.49 feet, to a point on the East right-of-way line of Harris Road; thence North 02 degrees 38 minutes 40 degrees East, 573.21 feet, to the South line of Herring Road; thence South 89 degrees 35 minutes 38 seconds East, along Herring Road, 620.89 feet to the Point of Beginning.

ATTACHMENT TO RLA-2

Condition Use Permit for a period of 5 (five) years with the following Conditions:

1. The bed and breakfast inn is limited to no more than 4 bedrooms for temporary lodging for transient guest on a paying basis.
2. Cooking facilities shall not be permitted in individual guest rooms.
3. In addition to required residential parking, one off-street parking space shall be provided for each guest room.
4. One identification/directional sign, not to exceed eight (8) square feet in area, may be permitted at the entrance to the bed and breakfast inn.

ATTACHMENT TO RLA-3:

Attachments

Plan Commission Public Hearing Summary from September 20, 2018

Location Map

Staff Report

Names/Addresses of Surrounding Property Owners

Copy of letter to said property owners

Map showing current zoning district in area

County Code Chapter 240 – Unified Development Code

County Master Plan – “Strategy for the Future”

Application

Pictures of Property

PLAN COMMISSION – September 20, 2018

Randy Diehl gave the Staff Report

RE: CU-2018-226 & 227

Applicant: Herring Road Partnership, Chase Bryant

Property Owners: Robert J Jr & Christa L Aletano

Location: 26207 E. Herring Road

Area: 20.00 ± acres

Request: CU-2018-226: A Conditional Use Permit for a period of 5 years to operate a Bed and Breakfast.

CU-2018-227: A Conditional Use Permit for a period of 5 years to operate an Equine Therapy Stable & a Boarding and Training Stable.

Zoning Classification: District AG (Agricultural)

Current Land Use and Zoning in Area:

Zoning in the surrounding area is Agricultural. Directly North across Herring Road is Aimee Lane Estates, within District RE (Residential Estates). To the South, Walker Estates, also within District RE. There is a mix of residential tracts in District AG, ranging from 2 acres to 10 acres in size. To the Northwest is Trophy Estates, a residential development of 55 homes.

CU-2018-226

Comments: Within the Unified Development Code (UDC), a bed and breakfast inn is allowed as a conditional use within District AG.

A bed and breakfast inn means the use of an owner-occupied or manager-occupied residential structure providing rooms for temporary lodging or transient guests on a paying basis.

There are a total of five bedrooms in the residence. The applicant has stated that only four of the bedrooms will be available for guests. Since the number of bedrooms is less than five, this would not be subject to licensure and inspection by the Missouri Department of Health and Senior Services (DHSS) and would not require a lodging permit to be issued by Jackson County Environmental Health. There is a common dining area for the guests. A food permit would need to be obtained from Jackson County Environmental Health.

The Bed & Breakfast will be primarily offered to clients of the training facility and the assisted therapy stables. (CU-2018-227).

Recommendation:

Staff recommends APPROVAL of CU-2018-226 for a five (5) year period provided the following conditions are met:

Condition Use Permit for a period of 5 (five) years with the following Conditions:

1. The bed and breakfast inn is limited to no more than 4 bedrooms for temporary lodging for transient guest on a paying basis.
2. Cooking facilities shall not be permitted in individual guest rooms.
3. In addition to required residential parking, one off-street parking space shall be provided for each guest room.
4. One identification/directional sign, not to exceed eight (8) square feet in area, may be permitted at the entrance to the bed and breakfast inn.

Mr. Antey: Are there any questions for Randy?

Mr. Akins: What is temporary?

Mr. Diehl: It's not an extended stay. More like a weekend stay.

Mr. Akins: Does the code have a limit?

Mr. Diehl: The UDC doesn't have a limit or number of days defined.

Jay Haden, County Counselors Office, suggested that staff present the report for CU-2018-227 and the Commission could take testimony for both applications.

CU-2018-227

Comments: An equine riding center and horse stables are allowed by Conditional Use Permit in District AG (Agricultural).

Conditional Uses are those uses which generally are compatible with the permitted land uses in a given zoning district, but which require individual review of their location, a design and configuration and the imposition of conditions in order to ensure the appropriateness of the use at a particular location within a given zoning district.

Touchstone Farm Saddlebred Training is wishing to relocate their operations to the subject property. They train 20-25 horses. Individuals owning horses receive private instruction with two trainers. All horses are show quality that travel to shows around the country. Training operations

will primarily be conducted within a proposed barn and arena, with occasional outdoor sessions.

Skylark Equine Assisted Learning is a non-for profit entity that will offer range of activities for therapy utilizing horses as partner. The horses will be stalled within the proposed barn. Private and semi-private sessions will take place in the existing barn, as well as the turnout spaces behind and to the side of the barn.

The applicant has also submitted a summary on how they plan on handling manage the waste generated on the property. The plan on utilizing a composting system within a self-contained shed to process the waste into a high grad compost.

Recommendation:

Staff recommends APPROVAL of CU-2018-227 for a period of five (5) years subject to the following conditions:

- 1) The number of horses boarded shall be limited to no more than 36 (thirty six) at any one time.
- 2) The outdoor arena shall not have any accessory lighting.

Respectfully submitted,

Jackson County Public Works
Development Division
Randy Diehl, Administrator

Mr. Antey: So the boarding facility and the therapy stable run together and the bed and breakfast is separate, however they both go together as well?

Mr. Diehl: Correct. These are separated so that in the future if the owner or a new owner decide not to have one or the other Conditional Uses, they could be renewed or expire separately.

Mr. Mershon: How long has this facility been here?

Mr. Diehl: Right now this is a private barn. The house and barn were constructed about 10 years ago.

Mr. Tarpley: Is there a current permit for the horses?

Mr. Antey: They are the current home owner's horses. It's allowed under Agricultural zoning.

Mr. Antey: *Is the applicant here?*

Chase Bryant: 7860 W 155th St, Overland Park, KS

Mr. Antey: *Do you have anything to add to the report?*

Mr. Bryant: I think it was covered pretty well.

Ms. Mershon: I don't see his name on the application.

Mr. Diehl: Mr. Chase is Herring Road Partnership.

Mr. Antey: So part of this will be show horses and part of it will be therapeutic?

Mr. Chase: Yes. We intend to build an additional barn, north of the current one. The bed and breakfast is primarily for those coming in for the training.

Mr. Tarpley: Are you the instructor?

Mr. Bryant: No. I'm a real estate developer.

Mr. Tarpley: Robert and Chrisina?

Mr. Bryant: They are the current property owners.

Ms. Mershon: Who will be running the bed and breakfast?

Mr. Bryant: My wife.

Amy Bryant: 7860 W 155th St, Overland Park, KS. I will be in charge of the bed and breakfast. It's primarily just those who come out for training. If they want to come out for a weekend, they have a place to stay so they can be close to their horses. We don't anticipate many outside guests, but we didn't want to eliminate that option. Same for the equine therapy, if they want a weekend stay.

Mr. Tarpley: What about the manure? Will it be stored close by?

Ms. Bryant: We are going with a company called O2Compost out of Oregon. They will come in build a shed based on the number of horses we have. It has multiple bins that works its way to a high end compost. We intend on approaching nurseries in the area and sell directly to them. The process is around 30 to 45 days. The system is an automatic processing.

Mr. Haley: What about smell?

Ms. Bryant: According to the company, if done correctly, they said there will be no flies or smell. We didn't want to spread the waste, given the number of horses we will have, or have a company come in and remove it.

Mr. Antey: Is the process chemical or organic?

Ms. Bryant: It is a total organic process. Which is more desirable for resell. Since these are stabled horses, their diet is controlled. High quality in and high quality out which makes for a high quality compost which nurseries desire.

Mr. Antey: So you're going the bed and breakfast, who will be in charge of the stables?

Ms. Bryant: The stables will have a full time stable hand, who runs the day to day operations. The trainers are typically there from 7:00 in the morning to about 3:00 in the afternoon. The weekends are the same, when the owners come out for lessons. This allows for one on one training as well as few people at any given time. The hand takes care of feeding, cleaning and moving the manure to the compost shed.

Mr. Akins: Is the composting subject to public approval?

Mr. Antey: No it's not a condition, it's part of the plan they are submitting.

Mr. Antey: *Is there anyone else who is in favor of this application?*

There were none.

Mr. Antey: *Is there anyone who is opposed or has questions regarding this application?*

Mike Walker, 13225 S. Harris Road. My property is directly south. That picture was taken from my patio. It's about 25 yards from the fence line. (Actual measurement from fence to existing barn is 230 feet). 36 Horses and 36 people and parking spaces is a concern. We all move out to that area for privacy. Out my window there's nothing to block it. I've planted 15-20 shrubs. There's a clear line of site from the barn to my patio. Their driveway comes toward my house, visitors will be shining lights into us. There's no clear boundary between the properties, so someone on a horse could end up in my yard. Our pond is close to the property line. Current runoff from the East side, there is a berm that was built when there house was constructed, that sends water to our property. It drains to the corner and into our pond. We have problems keeping the pond clean, and adding 36 horses, composting or not, will affect that. There's still going to be waste on the ground, 36 horses pooping next to your patio will make a difference. The traffic is to be considered. So is a lot of commotion at 7:00 in the morning.

Mr. Antey: How long have you lived there?

Mr. Walker: We built in 2010.

Mr. Tarpely: Do you access your property from Harris?

Mr. Walker: Yes

Mr. Haley: How large is your property?

Mr. Walker: Five acres

Ms. Mershon: Is there a fence between the properties?

Mr. Walker: The fence in the picture in is 10 feet into your property. Not's not on the line.

Ms. Mershon: But there is a fence?

Mr. Walker: Around the barn.

Mr. Tarpley: But there is a fence all around the barn?

Mr. Walker: I'm not sure if it goes around the barn. There are horses there now, just inside the property line.

Mr. Tarpley: How many horses did they have now?

Mr. Walker: About six.

Mr. Tarpley: Have you had any problems with them?

Mr. Haley: If you have any shrubbery, would that solve your problem?

Mr. Walker: It would help, but not solve.

Ms. Mershon: (pointing to map) isn't this all trees?

Mr. Walker: yes, but not between the houses.

Mr. Akins: Is there a way that the water could be diverted to cause the runoff? Anything that staff could do?

Mr. Diehl: That would be a civil issue between the property owners.

Mr. Antey: *Is there anyone else who would like to speak regarding this application?*

Christa Aletano, 26207 E. Herring Road. My husband and I currently own this property. The Walker's and the Aletano's have had a contentious relationship since day one. The view that he says is from his patio, is not. That picture was taken from our tree line. There is a row of trees. Before we constructed our home, he asked that we move the proposed location of our home to somewhere else on the property. When built (enlarged) his pond, his crossed the property without the benefit of a survey. There is no runoff into his pond. The bank is high, if anything, his pond goes onto our trail. There are rows of trees between us, and in the winter, leaves fall.

Mr. Tarpley: Can you point to where the dam is on the pond?

Ms. Aletano: It sits on the property line. (Pointy on map). He overbuilt and we asked him to move it.

Mr. Antey: How many horses to you have?

Ms. Aletano: We have 5 horses and 5 miniature donkeys.

Mr. Antey: The immediate area around the barn, is that the only fencing? Are there plans for more fencing?

Ms. Aletano: That would be up to the new owner.

Ms. Bryant: If look to the map, the big open area, is where we intend to fence. Right now it's a hay field. With the no build line along the creek, we are going to construct the new

barn to the north of the existing barn. These horses are housed indoors. All the riding will be taking place in the proposed barn. Occasionally they will be outdoors.

Mr. Antey: Is there anyone else who would like to speak regarding this application?

Margaret Rush, 13120 S Harris Road. We are directly across the street (to the west). In the summer, I don't see the house. In the winter, when the leaves drop, I can see everything. I have 10 acres and lived out there for 30 years. I moved out there for the peace and quiet. I've never heard any of the neighbors or any commotion. I have issue with 35 horses. With the equine therapy, what type of people does that include?

Ms. Bryant: There is a variety of people served. We will work with autistic children as well as those with Post Traumatic Stress Syndrome, both benefit your equine therapy. This will be conducted within the existing barn. It's considered on-ground therapy. They don't ride the horse, they just interact with it. Outside of the occasional group session, these are primarily private sessions to keep it more intimate.

Mr. Tarpley: It is primarily for handi-capped people?

Ms. Bryant: It can be. It takes a different level of licensing for handi-capped. It requires more people around the horse in order to assure safety. Most want to be able to ride in order to have that level of freedom. At this point we are limited to the on ground training. As for the privacy issue, the bed and breakfast is intended for the people who own their horse to come out and stay a weekend. Outdoor riding is very limited, since all training is done indoors. The shows they go to are indoors, so training would likewise be indoors. They are show horses that stay inside.

Lonnie Burgess, 13222 S Harris Road, I don't know if I'm opposed to this, from what I'm hearing is that this is a commercial development, and there not may be an owner living onsite. It's business in the middle of a residential area.

Mr. Antey: Within an agricultural zoning, this use requires a Conditional Use Permit. Any use permitted within agricultural is allowed. They can run horses and not need a stable. This use has stipulations attached to the permit.

Mr. Burgess: What about the owner living there?

Ms. Bryant: We intend to live on the property. The lower level has a master bedroom and living area. The upper level had the four bedrooms and attached full bath. I'm not taking on something of this nature without living there.

Mr. Antey: Is there anyone who is opposed or has questions regarding this application?

There were none

Motion to take under advisement.

Mr. Tarpley moved to take under advisement. Mr. Akins seconded.

Discussion under advisement

Mr. Tarpley: Sound like a wonderful facility to me. There are indoors, any outside waste would be minimal.

Mr. Antey: The horses will be on the north side of the property. The new barn being built to the north is good as well.

Mr. Haley: Being that they are moving to the property is good.

Mr. Antey: I've got a corn field behind my house. I love not having houses, but to keep that view would take a lot of cash to buy all that.

I would entertain a separation motion for each conditional use permit.

Mr. Akins moved to approve CU-2018-226. Ms. Mershon seconded.

Ms. Mershon	Approve
Mr. Haley	Approve
Mr. Tarpley	Approve
Mr. Gibler	Approve
Mr. Akins	Approve
Ms. Querry	Approve
Chairman Antey	Approve

Motion Carried 7 – 0.

Mr. Haley moved to approve CU-2018-227. Mr. Tarpley seconded.

Ms. Mershon	Approve
Mr. Haley	Approve
Mr. Tarpley	Approve
Mr. Gibler	Approve
Mr. Akins	Approve
Ms. Querry	Approve
Chairman Antey	Approve

Motion Carried 7 – 0.