



STAFF REPORT

June 24, 2009

TO: Aubry-Oxford Consolidated Zoning Board
FR: Pamela L. Hayhow, AICP, Planner
RE: Application No. AUOX-CU-2916 (AU)

APPLICATION INFORMATION:

Applicant: Swan Developments, Inc.

Property Owner: Randal & Pamela Brown

Requested Action: Conditional Use Permit to allow an accessory building to be located in the front yard in the PRLD district.

Legal Description: Lot 2, Palos Verdes Estates; A subdivision located in the Northwest Quarter of Section 22, Township 14, Range 25.

Site Address/Location: 16866 Palos Verdes Drive.

Existing Land Use and Zoning: Single-family residential with PRLD, Planned Residential Low Density zoning.

Existing Improvements: A single-family residence, pond and fenced pasture.

Site Size: 8.35± acres.

Proposal: The applicant is requesting approval of a Conditional Use Permit (CUP) to allow the construction of a 1,512 sq. ft. horse/hay barn in the front yard, between the residence and the cul-de-sac bulb, at 16866 Palos Verdes Drive. The property is zoned PRLD, Planned Residential Low Density and is developed with a single-family residence, pond and fenced pasture area. The residence is set back approximately 535 feet from the cul-de-sac. The proposed barn will be set back approximately 250 feet from the cul-de-sac. The approximate half-acre pond and fenced pasture area are located between the residence and the cul-de-sac.



Aerial View

ZONING HISTORY

The property was zoned PRLD, Planned Residential Low Density, and platted as Palos Verdes Estates in 2003 (AU-PRN2-2320, AU-PDP-2377 & AU-FDP-2368). Construction of the residence was completed in 2004.

Existing Infrastructure and Minimum Infrastructure Requirements:

The Minimum Infrastructure Requirements shall be guidelines for purposes of reviewing conditional use permit proposals. The following are typical infrastructure needs of CUP applications:

- Water:** There is an existing 8 inch waterline located within the R-O-W for Palos Verdes Drive.
- Sewers:** Wastewater facilities are not available to the property and are not required for the accessory building use. An on-site septic system is utilized for the residence.
- Public Safety:** Police protection is provided by the Johnson County Sheriff’s Office.

Fire protection is provided by Rural Fire District #2 with the nearest fire station located approximately two miles south on Mission Road.

Roads: Access to the property is from Mission and Kenneth Roads via collector street, 171st Street and local cul-de-sac, Palos Verdes Drive. Mission Road is a CARNP designated Type II/4 Lane Arterial Roadway. Kenneth Road is designated as a Type 1 CARNP Roadway. All roadways to the property are paved.

Summary: Minimum infrastructure is not an issue with this application.

STAFF ANALYSIS

An amendment to the County Zoning and Subdivision Regulations was approved in December of last year, Resolution No. 092-08, to allow more flexibility in the placement of accessory structures. In the Rural District on tracts 3 acres or greater, accessory buildings are now allowed in the front yard. However, accessory buildings proposed in front yards on lots in a Residential or Planned Residential District or on lots of less than three acres in the Rural or Planned Rural district require a CUP per Article 18, Section 6(A), 2. This proposed accessory building is in the front yard on property zoned Planned Residential.

Conditional Use Permits, Article 23, Section 4(B)(12), Performance Standards for Accessory Buildings

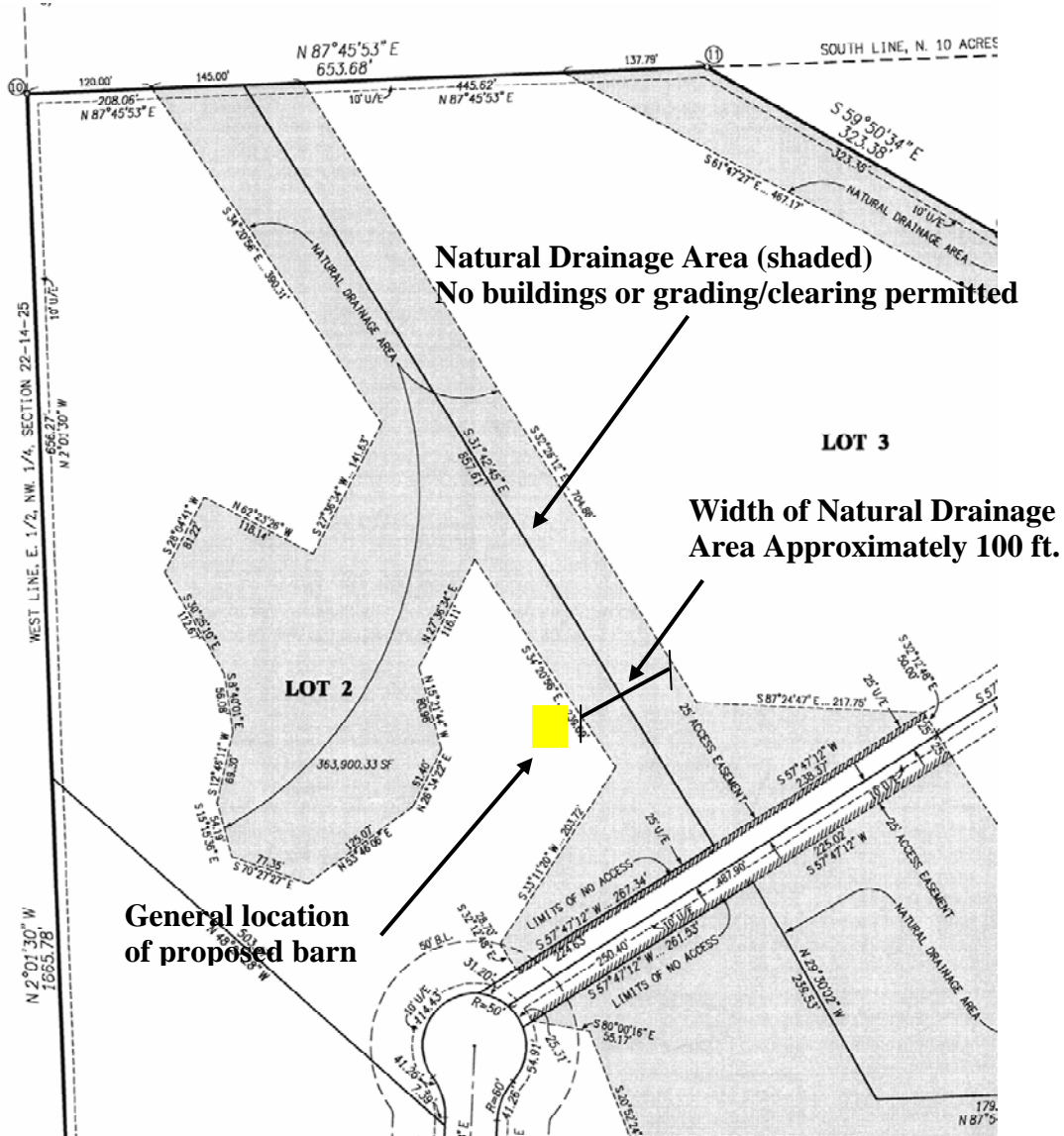
Accessory buildings located in the front yard are subject to performance standards, as set forth in Article 23, Section 4(B)(12).

- a. Should be constructed of similar or compatible materials and have an appearance and scale (e.g., height and bulk) compatible with the residence on the property and residences on nearby properties, so as to not cause substantial adverse visual or other negative impacts to surrounding properties; and
- b. May be required to be screened or landscaped (e.g., fencing, trees, shrubs, berm), if necessary.

The proposed hay/horse barn would be approximately 1,500 sq. ft. in size (36 ft. X 36 ft. enclosed with a 6 ft. X 36 ft. open sided “lean-to” area). The structure would be constructed with 8 in. vertical wood siding finished in a natural medium brown color. The gable roof would consist of galvanized metal (grey/silver in color, flat finish) with two, 4 ft. dormers on either side and a 2 ft. center cupola. There would be sliding doors on all four elevations and windows on the sides with the front gable. The overall height of the building would be 23 ft. The architectural design and building materials proposed for the barn would have an appearance and scale compatible with the residence and nearby properties and would not cause adverse visual or negative impacts to surrounding properties.

The proposed location is to the east of the pond, about 50 feet from the side property line and adjacent to a heavily treed natural drainage area. The natural drainage area, dedicated on the plat along the shared property line of this lot and adjoining Lot 3 (see figure below), is approximately 100 feet wide near the proposed location of the barn. The proposed barn would be located

approximately 250 feet from the cul-de-sac bulb, greatly exceeding the required 50 ft. minimum front setback for the PRLD district. Given the maturity of the trees, the width of the natural drainage area, and 250 feet setback, the proposed barn will be buffered and screened from adjoining properties. No additional landscaping or buffering is necessary.



Plat - Showing Natural Drainage Area

Golden Analysis

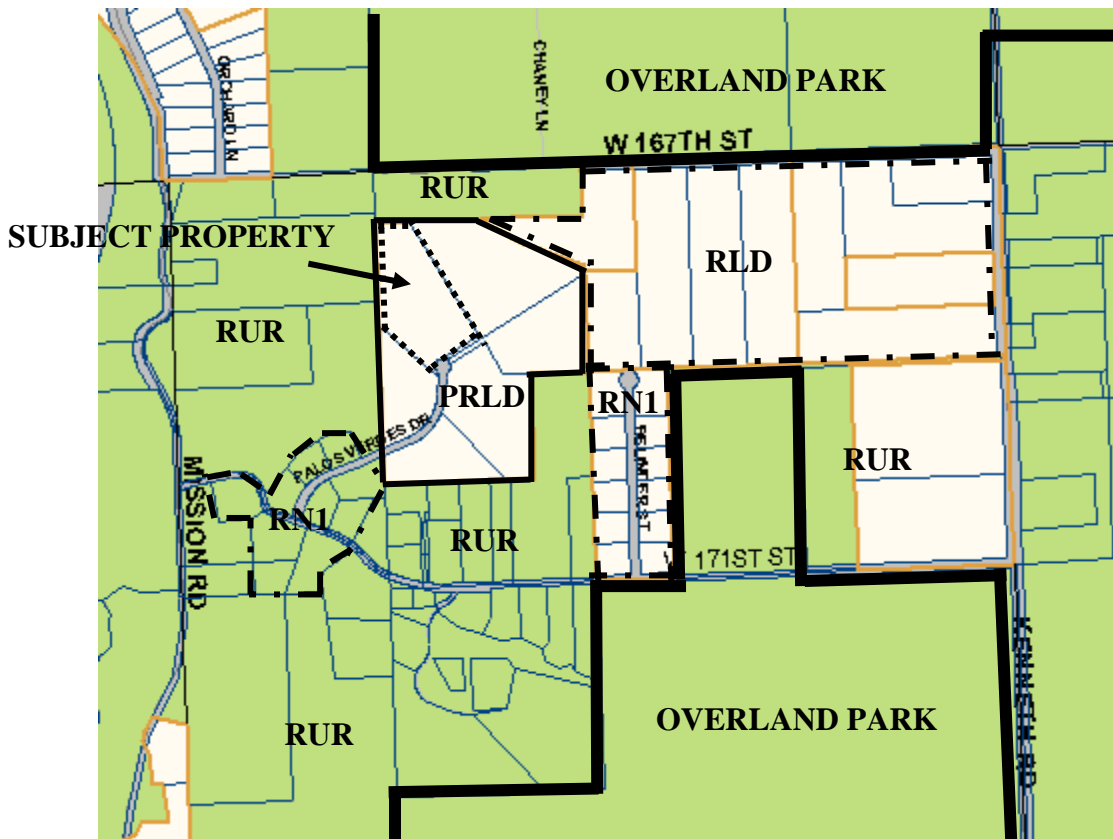
The Regulations, the *Rural Comprehensive Plan*, and Kansas case law indicate that consideration should be given to whether the CUP is in the interest of the public health, safety, morals, and general welfare of the community. The CUP application has been considered with regard to the following:

1. Whether the use would be consistent with the zoning and uses of nearby properties.

RUR, Rural, zoned property used for residential purposes exists on the north, south and west sides of the subject property. Several of these properties have large accessory buildings and appear to include agricultural uses (stables and riding trails). The area adjacent to the east and south of the subject property is zoned PRLD and consists of five residential lots platted as the Palos Verdes Estates subdivision. A single-family residence is located on the adjoining lot to the east but the remaining 4 lots within Palos Verdes Estates are vacant. A small, RN-1 zoned subdivision exists to the southwest of the subject property consisting of five 1 to 1½ -acre lots. The proposed hay/horse barn would be consistent with the zoning and land uses of nearby properties.

2. Whether the use is compatible with the character of the neighborhood.

The character of the area is not well defined but could best be described as residential. There are pockets of residential neighborhood development on small lots with an established residential character but the majority of the residences in the area are isolated due to larger lot sizes, increased setback, topographical or natural drainage/vegetation conditions. The proposed horse/hay barn and location would be compatible with the loosely defined residential character of the neighborhood.



Surrounding zoning and properties within approximately 1 mile of subject property

3. Suitability of the property for uses to which it has been restricted.

The property is presently zoned PRLD, Planned Residential Low Density, and restricted to residential and accessory uses on minimum 3 -acre lots. Under the current zoning district restrictions, up to three accessory structures with a total square footage of 3,105 square feet would be allowed on the 8.35 acre property. Also, up to 4 horses could be kept within the open area on a property of this size. The property is suited to the restricted uses, including the proposed barn.

4. Extent of detrimental effects to nearby parcels should the CUP be approved.

There would be little or no detrimental effect to nearby parcels should the CUP be approved. The accessory use of the property – the pond and fenced pasture area – is already located between the front of the residence and Palos Verdes Drive. The construction of a horse/hay barn, compatible in appearance and scale to the residence, could be considered as an orderly, reasonable expansion of these permitted accessory uses.

5. Length of time the property has remained vacant as zoned.

The property has been developed with a single-family residence since 2004.

6. Relative gain to the public health, safety and welfare as opposed to the hardship imposed upon the landowner by denying the request.

There would be little or no gain to the public health, safety and welfare by denying this request. The hardship to the landowner would be that the construction of the horse/hay barn behind the front façade of the residence would not be useful or convenient to the existing fenced pasture. Prospective building sites on the lot are limited by the location of the residence, the large amount and configuration of the natural drainage area, and topography.

7. Whether the use is in keeping with the Comprehensive Plan.

The Rural Comprehensive Plan: A Plan for the Unincorporated Area of Johnson County (Plan) includes this property in The Blue Valley Area Plan. The property is located within the Urban Fringe Area of this Plan, further designated on the Future Land Use Map as a Growth Policy Area: Ag/Residential. The Growth Policy Area does not directly address the location of accessory buildings but the proposed use as a horse/hay barn is in keeping with the *Plan*. Approval of this CUP to allow the construction of the proposed structure in the Front Yard in a residential district is not inconsistent with the *Plan*.

8. Other Considerations

Article 23 Section 6 (C), Standards for Issuance of a CUP:

The Zoning Board shall not recommend that a Conditional Use Permit be granted unless it shall first make a finding, based upon the evidence presented to it, that adequate consideration has been given to the following:

- 1.) *Is in harmony with the general purpose and intent of the regulations.*
In residential districts, aesthetics, streetscapes and harmony are the primary reasons that accessory buildings in the front yard are regulated. In the case of this property, the location on the end of a cul-de-sac, the very large setbacks of the residences (in excess of 500 feet), the large lot sizes (>4acres), the low number of home sites (5 lots), and the heavily treed natural drainage and pond areas are all reasons to allow this use and which establish the basis for compliance with the general purpose and intent of the regulations. Also, the proposed structure is in harmony with the general purpose and goals of the performance standards regarding the placement of accessory buildings in the Front Yard.
- 2.) *Will not impair the adequate supply of light and air to adjacent property.*
The proposed horse/hay barn will not impair the adequate supply of light and air to adjacent properties.
- 3.) *Will not increase hazards from fire or other dangers.*
The proposed structure would not increase potential hazards or appreciable danger to the public due to the setbacks from residences and existing public roads.
- 4.) *Will not increase traffic on streets beyond their capacity.*
The proposed horse/hay barn is for private use by the property owners and there will be no increase in traffic.
- 5.) *Will not increase potential for flood damages to adjacent property or lead to additional public expense for flood protection, rescue or relief.*
The location of the proposed structure is out of the designated natural drainage area. No grading or removal of any trees within the natural drainage area will occur therefore this CUP will not increase the potential for flood damages or lead to additional public expense for flood protection, rescue or relief.
- 6.) *Will not otherwise unduly impair the public health, safety, comfort, morals, or general welfare of the inhabitants of the County, or otherwise create a nuisance or nuisance-like situation.*
Approval of this CUP will not impair the public health, safety, comfort, morals or general welfare of the inhabitants of the County. Any nuisance or nuisance-like effect would be visual and has been mitigated through site considerations.
- 7.) *Will not pollute the air, land, or water.*
This use will not pollute the air, land or water.

Public Works: No objection.

RECOMMENDATION

Planning staff recommends **approval** of a Conditional Use Permit to allow an accessory building to be located in the front yard in the PRLD district, at 16866 Palos Verdes Drive, with the following stipulations:

1. Use of Property. The accessory structure shall be constructed per the development plan (attached hereto as “Exhibit A”), except as modified by these stipulations.
2. A building permit shall be obtained prior to commencement of construction activity.
3. Site Lighting. Exterior lighting shall be directed down onto the site and shall not produce glare off site.
4. The term of this permit shall be for a period not to exceed 10 years commencing from the date of Board of County Commissioner approval of this resolution.

REASONS FOR RECOMMENDATION:

1. The accessory structure is consistent with the surrounding zoning and land uses.
2. The unique characteristics of this property: the location on the end of a cul-de-sac, the very large setbacks of the residences (in excess of 500 feet), the large lot sizes (>4acres), the low number of home sites (5 lots), and the heavily treed natural drainage and pond areas facilitate compliance with the general purpose and intent of the regulations.
3. The property is suited to the uses for which it is restricted and is also suited for a horse/hay barn to be located in front of the residence.
4. There will be little or no detrimental impact on the residential use of nearby properties.
5. The horse/hay barn is located in such a way as to visually buffer the building from nearby residences.

Attachments: Vicinity Map, Written Narrative, Development Plan