

Planning & Zoning Meeting  
July 9, 2019

This regular meeting of the City of Jerome Planning & Zoning Commission was called to order at 6:59 p.m. Present were Chairman Rod Mink, Commissioner Jeff Schroeder, Commissioner Dave Holley, Commissioner Sheryl Gibbons, and Commissioner Carl McEntarffer. Commissioner Bill Allred arrived at 7:04 p.m. Commissioner Randy King was excused. Also present were City Planner Ida Clark, Legal Counsel Ted Larsen, and Secretary Katie Elliott.

**CONSIDER** a Design Review from Chris Carlson representing Wal-Mart Stores, Inc., 2680 South Lincoln Avenue, Jerome, Idaho – action item

Staff Report: Ms. Clark stated the property is located at 2680 S Lincoln Ave in Jerome; it is an existing building. The applicant is proposing to add one canopy to the south of the building with directional signs and new parking lot stripping. The canopy is for covered parking for the new pick-up service. The business is located in the High Density Business zone (C-3). The commission approved the façade update and “pick-up” sign at the October 23rd, 2018 Planning & Zoning Meeting. The applicant notes this is consistent with the Walmart brand. The canopy will be constructed of steel beams and tensile strength fabric. The steel beams will be Knockout Orange with the canopy in the color of white. Current landscaping will remain unchanged.

Regarding the Design Review Guideline #12 Circulation Needs, Ms. Clark stated the location of the new canopy will not interfere with the pedestrian walkway. New painting and signage will be installed that will improve the circulation of pedestrians and vehicles. The location of the canopy and parking will not interfere with delivery trucks.

Regarding 17.18.050: UNIQUE LAND USES: Setback and Height Requirements of Accessory Structures, Ms. Clark stated the canopy will be placed in accordance with the minimum setback requirements. It is set more than more than three (3) feet from property lines. The height will be less than 25 feet and is consistent with the color pallet of the Wal-Mart brand.

Ms. Clark stated she went and took a picture for the new architect company of what was previously approved. She stated she explained that the signs and color update were already completed. Upon inquiry from Chairman Mink, Ms. Clark stated the canopy will be located on the south side of the building. She stated it will not be attached to the building but she believed it was currently employee parking. Discussion was held on where the structure would be located.

Duong Bach, representing Wal-Mart stated the picture represents what the canopy would look like but it will be closer to the building. He stated there will be 10 parking spots designated for the online grocery pickup. He stated six will be under the canopy and four will be uncovered. He stated they will be 12 feet wide for safety. Upon inquiries from Chairman Mink and Commissioner McEntarffer, Ms. Clark stated they had already approved of the Knockout orange

and they will continue to use that color on the canopy. Commissioner Holley stated since they clarified where the canopy will be located, he had no concerns or issues. Ms. Clark stated the sidewalk and landscape will remain where it currently is.

Commissioner McEntarffer made a motion to approve the Design Review from Chris Carlson representing Wal-Mart Stores, Inc., 2680 South Lincoln Avenue, Jerome, Idaho as presented.

Second to the motion by Commissioner Holley and carried.

Unanimous “ayes”

### **Consent Agenda**

*The consent calendar consist of items that are considered to be routine in nature and will be enacted in the form of one motion. Any item can be removed from the consent calendar and heard in its regular order at the request of any commissioner or the chairman.*

- A. Approve the minutes from the June 25<sup>th</sup>, 2019 regular meeting
- B. Consider/Approve Finding and Facts for Maria Viveros for a Special Use Permit allowing six chickens, on the property located at Lot 1, Block 1, Jerome Estates Subdivision Phase 7, NE 13-8-16, more commonly known as 501 13th Avenue West, Jerome, Idaho.

### **FINDINGS AND CONCLUSIONS ON APPLICATION OF MARIA VIVEROS FOR A SPECIAL USE PERMIT ALLOWING SIX CHICKENS, ON THE PROPERTY LOCATED AT LOT 1, BLOCK 1, JEROME ESTATES SUBDIVISION, MORE COMMONLY KNOWN AS 501 13<sup>TH</sup> AVENUE WEST JEROME, IDAHO**

A public hearing on the application of Maria Viveros concerning that parcel commonly known as 501 13<sup>th</sup> Ave. West, Jerome, Idaho, for a special use permit was held, pursuant to notice, commencing at 7:15 p.m. on Tuesday, June 25, 2019 at City Council Chambers, 100 East Avenue A, Jerome, Idaho.

Staff Report: City Planner, Ida Clark stated the property in question, 501 13th Avenue West, in Jerome, is currently zoned Residential 2 (R-2). The proposed use, the possession of chicken or poultry, requires a Special Use Permit from the Planning and Zoning Commission. Regardless of use, setbacks for this property are as follows: Front- 25’, Rear- 20’, Interior Side- 7’, and Street Side- 15’.

Ms. Clark stated Title 16 has no bearing on this request.

As pertains to the City of Jerome’s Comprehensive Land Use Plan, Ms. Clark stated the request is in compliance with the Comprehensive Plan as relates to Rural Residential Land Uses requiring Special Use Permits in Section 3.1.1.

As pertains to Title 8 of the JMC, the ordinance addressing nuisances, Ms. Clark reminded the commission of the definition of stable matter as, all manure and other waste matter normally accumulated in or about a stable, or any animal, livestock, or poultry enclosure and resulting from the keeping of animals, poultry or livestock.

Regarding the General Standards for Special Uses, Ms. Clark stated the Planning and Zoning Code allows up to six chickens in the R-2 zone with an approved special use permit. The request appears to be harmonious with the objectives of the Comprehensive Plan and Title 17 of the Jerome Municipal Code. The application notes the chickens will be kept in the backyard in a fully-enclosed coop. There will not be any modifications to the front of the residence, ensuring that the use will not change the essential character of the area. There is no indication that the proposed chickens would be hazardous or disturbing to neighboring uses. There is no indication that additional services will be needed to serve this use. It does not appear the chickens will not create excessive additional requirements at public cost. The chickens will not be detrimental to persons, property or the general welfare by creating excessive odors, traffic, smoke, fumes or glare. There are no changes proposed to the vehicular approaches to the property. It does not appear that the chickens will result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

If approved, Ms. Clark recommended the following conditions: Chickens will not create odors, noise, nor be detrimental to persons, property or the general welfare; Any chicken coop or accessory structure associated with the chickens shall be placed in accordance with the accessory structure setback requirements set forth in the Jerome Municipal Code; and Special Use Permit shall be allowed for up to one year, renewable upon expiration.

Ms. Clark stated the chicken coop is located next to the home and she has discussed the setback requirements with the applicant. Upon inquiry from Chairman Mink, Ms. Clark stated the building would be considered an accessory building and the required setback is three (3') feet from the house.

Testimony in Favor:

Applicant Testimony: Maria Viveros, 501 13<sup>th</sup> Avenue West, testified, she wants to get permission for six (6) chickens. She stated her husband moved the building away from the house and it is now more towards the fence. She stated they moved it three feet from the house along the fence. Upon inquiry from Commissioner Allred, Ms. Viveros showed the commission where the building is on the property. Upon inquiry from Chairman Mink, Ms. Viveros stated there is plenty of room from the property line. She stated she would like to ask for permission to have the chickens.

Testimony in Neutral: None

Testimony in Opposition: **Dave Holley**, 1413 N Elm, testified, he moved to a subdivision to have uniformity. He stated the subdivision offers peace and serenity with certain restrictions and requirements that everyone must follow to make everything look nice. He stated he has been in Jerome Estates for around five or six years and they have had neighbors butcher chickens in front of children, and when they were approached,

they stated they had the right to do whatever they would like. He stated he does not know the applicant and lives a block and a half away. He stated her house is right next to the public walk way for the elementary school. He stated he has read numerous statistics from CDC (Centers for Disease Control and Prevention) regarding home raised chickens and salmonella. He stated he could have moved anywhere in the city and the county and he does not think they should be in a subdivision. Mr. Holley provided a copy of the Covenants, Conditions, & Restrictions (CC&R's) for the subdivision. He stated the CC&R's state, "no animals, livestock or poultry, of any kind shall be raised, bred, or kept on any Lot; provided, however, that dogs, cats and other household pets are allowed provided that they are not kept, bred or maintained for commercial purposes." He stated this use would break the CC&R's and he wants the subdivision to stay nice.

**Jerry Gronterman**, 1417 N Date St, President of HOA, testified, he went around and took a poll around the subdivision to see what everyone's concerns. He stated most of the concerns were with skunks, dogs, and cats. He stated the residents wondered who would be maintaining and responsibility of the chickens if they are killed by another animal. He stated the family is new to the area and people are just concerned on how the chickens will affect their property

**Justin Firth**, 505 13<sup>th</sup> Ave West, testified, he is the neighbor to the west of the property. He stated he has no objections to the family but he stated around a year ago, there were chickens running down the shared fence line. He has concerns with parasites going across the property lines, being close to the walking path for the Elementary School, and skunks coming into the subdivision. He stated they live on the county line and they often smell skunks but he has concerned with disease, skunks, and parasites.

Ms. Clark read a few letters that were sent to her.

*To Whom It May Concern,*

*I am writing in regards to the request for six chickens at 501 13<sup>th</sup> Ave. West. When approached by the neighbor in early June to sign the petition, I at that time did not understand the hazards to having chickens within the city limits. After learning that chickens were against the subdivisions regulations, I decided to research the complications of chickens. I am no longer in favor of chickens within the subdivision.*

*My concerns include; noise, waste, smell, and possible parasites. According to Brooklyn Feed, chickens are prone to getting parasites. These parasites can come with the bird from the seller or when wild birds with mites fly into the yard. It is unclear if these parasites can travel into other yards infecting animals in the neighboring yards. Chicken feed can attract rodents if not properly kept. Rodents will often spread to other homes in the area.*

*The smell of the chicken waste is also concerning. Six chickens produce the same amount of waste as a medium size dog. I am concerned with how the waste will be disposed of, as well as the smell from the waste. The chickens would be located within only a few feet of a walkway used by many students. The students would be exposed to the smell of the chickens each day. Disposing of the dead chickens is also a concern.*

*Noise is also concerning. Our homes are located extremely close to one another. Many nights we are unable to sleep because of neighboring dogs barking. Adding chicken cackling would be an inconvenience to the neighbors.*

*While I understand many of my concerns can be avoided with proper housing, cleaning and care. However, I am concerned over who would oversee that regulations are continually being meet. While I do not want to cause neighbor conflict I am no longer in support of them having chickens.*

*Sincerely,*

*Justin and Anny Firth*

*505 13<sup>th</sup> Ave. West*

To: Ida Clark, City Planner

Writing concerning the public notice considering a request for allowing six chickens on a property in our subdivision.

We object as homeowners to have chickens in our subdivision. The lots are too small to accommodate a chicken run.

It will set a precedence for anyone who wants some kind of farm animal to then have the right to do the same.

Robert Wandtke  
Kathleen Wandtke  
1422 N. Evergreen  
Jerome, ID 83338

Rebuttal Testimony: Ms. Viveros chose not to provide rebuttal testimony.

There being no further testimony, Chairman Mink closed the public hearing at 7:23 p.m.

The Jerome City Planning and Zoning Commission having heard the testimony presented, and having reviewed the application, Ms. Viveros testimony, and the other documents and material in the file, and having heard the testimony given verbally at the hearing enters its findings and conclusions as follows:

**I. Findings**

- A. Lot 1, Block 1, Jerome Estates Subdivision NE 13-8-16, more commonly known as 501 13<sup>th</sup> Avenue West, Jerome, Idaho is zoned Residential 1 (R-1), which requires a special use permit to use the property for the housing of up to 6 chickens.
- B. Title 16 of the JMC has no bearing on this application.
- C. The application for a special use permit complies with the City of Jerome Comprehensive Plan, Section 3.1.1., and inasmuch as it is compatible with the existing and potential land uses.
- D. The application is inconsistent with the General Standards for Special Uses stated in JMC 17.60.030. Standards C and D, in particular are inconsistent with the application. Standard C requires the proposed use to be “operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.” Standard D requires the proposed use to not be “hazardous or disturbing to existing or future neighboring uses.” At the hearing on this matter, several neighbors came forth to express concern about how the proposed use would disturb the character of the area and disturb existing neighboring uses. Moreover, the president of the home owners association and one other neighbor pointed out the fact that the Covenants Conditions and Restrictions of the subdivision prohibit the keeping of chickens in the subdivision. Based on that testimony and on the fact the application failed to rebut such testimony, the Commission finds that the application fails to satisfy the General Standards for Special Uses set forth in JMC 17.60.030.

**II. Conclusions**

- A. A special use permit is required for the applicant to be able to allow for up to six (6) laying hens on the subject property, which property is located in R-1 zone.
- B. A special use permit promoting this use is consistent with the City of Jerome Comprehensive Plan, Section 3.1.1.
- C. The application, however, is inconsistent with the standards for special use permits stated in JMC 17.60.030.
- D. The Commission denies the application of Maria Viveros for a special use permit allowing six (6) laying chickens on that property located at 501 13<sup>th</sup> Avenue West, Jerome, Idaho 83338 because the application is inconsistent with the General Standards for Special Uses set forth in JMC 17.60.030.

These findings and conclusions, having been adopted by the Jerome City Planning and Zoning Commission on the 9<sup>th</sup> day of July, 2019, in support of the decision of the Planning and Zoning Commission on the 25<sup>th</sup> day of June, 2019 to approve the application as specified herein is hereby made final this 9<sup>th</sup> day of July, 2019.

---

ROD MINK,  
Chairman Jerome City P&Z Commission

Upon inquiry from Commissioner McEntarffer, Ms. Clark stated the Special Use Permit was denied. She stated the meeting tonight was to approve the Findings of Facts so she could send the appeal paperwork to Ms. Viveros if she wanted, she could appeal to City Council regarding the denial of the Special Use Permit. Ms. Clark stated she was made aware that the chickens and coop had been removed from the property.

Commissioner McEntarffer made a motion to approve the consent agenda as presented.

Second to the motion by Commissioner Schroeder and carried.

Unanimous "ayes"

#### **CITIZEN CORRESPONDENCE**

None

#### **DISCUSSION PERIOD & STAFF REPORTS**

Ms. Clark stated there are two Special Use Permits and she will bring the Private Street review back to the commission on the 23<sup>rd</sup> meeting. She stated for the first meeting in August, there will be a new subdivision, possibly two rezones, and a renewal for a Special Use Permit. Ms. Clark stated she will soon have access to CC&R's for the various subdivisions in Jerome. She stated she will be able to have applicants look into their CC&R's before they come in for the Special Use Permits. Ms. Clark stated since the private streets committee is now complete, she will be getting a landscape committee together.

There being no further discussion, Chairman Mink closed this regular meeting at 7:17 p.m.

---

Rod Mink, Chairman

---

Katie Elliott, Secretary