

**MINUTES  
ZONING BOARD OF APPEALS  
NOVEMBER 09, 2016**

**CALL TO ORDER:**

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday November 9, 2016 at City Hall, 101 Green Street, Galena, IL.

**ROLL CALL AND DECLARATION OF QUORUM:**

As Roll Call was:

Baranski	Present
Bochniak	Present
Cook	Present
Holman	Present
Jansen	Present
Nybo	Present
Rosenthal	Present

A quorum was declared.

Zoning Administrator Matt Oldenburg, City Attorney Joe Nack and Zoning Secretary Deb Price were also present.

**APPROVAL OF MINUTES**

**MOTION:** Bochniak moved, seconded by Cook to approve the June 8, 2016 minutes.

Motion carried on voice vote.

**MOTION:** Jansen approved, seconded by Holman to approve the October 12, 2016 minutes.

Motion carried on voice vote.

**OLD BUSINESS**

None.

## NEW BUSINESS

Cal. No. 16S-05, Applicant: Adam Johnson, 211 Fourth Street, Galena, IL 61036 and Owner: Bret Terrell & Kim Eastman – 1141 North West Street, Galena, IL 61036. Location: Parcel: 22-101-007-00, Lots 1,2 & 3, in Block 53 of the Original City of Galena, Jo Daviess County, Illinois. Common Address is 1141 North West Street, Galena, IL 61036. Request for Special Use Permit to allow Outdoor Commercial Entertainment and Commercial Animal Boarding in a Limited Agriculture District.

### PUBLIC HEARING

Cook asked to be recused from this agenda item. Chairperson Rosenthal allowed the request.

**MOTION:** Bochniak moved, seconded by Nybo to open the Public Hearing on Cal. No. 16S-05.

Motion carried on voice vote.

City Attorney Nack swore in all those persons who wished to testify at this public hearing.

**Adam Johnson, 211 Fourth Street** – spoke as the applicant in favor of the request. He stated that he is representing Bret Terrell and Kim Eastman in the request for a special use permit for outdoor commercial entertainment and commercial animal boarding to allow them to have up to 12 dogs on the property. They're looking at moving an existing business, located on the highway, to a better location that is safer and also to restrict how many visitors come to their site. The visitors will be brought to the site by appointment only, after being picked-up downtown. This will improve the experience for the visitors. This will benefit Galena by expanding the existing business and having it more structured. It will also bring more visitors downtown when they'll be picked-up. The Council also recently approved the use of the right-of-way next to the property to allow fencing and they think it will be a good use for the property. He believes this application covers all applicable codes in the City Ordinances.

Baranski asked if the City Council approved the use of the property already?

Oldenburg stated that the applicant wanted to use the practical portion of the yard surrounding the dwelling at the property. The right-of-way adjacent to the East is about 100 feet wide, so although the yard is up to the street, most of it is public right-of-way. There is also unimproved right-of-way along Muir Street that was part of the request. The applicant had to request permission by license from the City in order to utilize that space and to install any future fencing. The City Council approved that request for the residential uses, and also any commercial use pending approval for commercial uses by the ZBA.

Jansen asked if Muir Street was not in use?

Oldenburg stated that Muir Street, adjacent to the Southern property line, was unimproved. The right-of-way along North West Street is about 20-some feet wide, but the rest of the 100 feet right-of-way is unimproved; a lot of it is what would practically be the front yard of that property.

Nybo asked about the approval criteria and if the plan provides reasonable auditory and visual protection to surrounding properties?

Oldenburg stated that there are line-of-sight considerations to the visual protection of adjacent properties such as landscaping and bufferyards. The plan is to have fencing on the perimeter of the property as well as existing landscaping, with large spruce trees around the house, that should break-up the visual aspect. As far as the audible protection, Staff considered the history of the property the applicant has now; there hasn't been complaints about barking/howling in the past.

Baranski asked about the scheduling and operations of the business. He wanted to know the frequency and size of groups that will visit the site.

Johnson stated that visits would be at 2 hour intervals and they would be picked-up downtown with appointments made by phone / internet.

**Bret Terrell, 700 Spring Street** – spoke in favor of the request. He stated that the frequency of trips to the site is 4 loads per day – currently, there is no control on how people come and go to their present location; this way, there will be control on access to the property. The tour times would be: 9:00 AM, 11:00 AM, 2:00 PM and 4:00 PM only. The visitors will be picked-up downtown, given a van ride to the property while filling-out a waiver along the way. The route will be to take Dewey Avenue to Buckhill to Donnegan to divert tourists from knowing the easy route off of Field Street. This will reduce having passers-by from easily finding them.

Rosenthal asked whether people could just plug the address into their GPS and come there anyway?

Terrell stated that he has no intention to put their address on anything. The only way people can contact them is by phone number or their brochure information; they have a PO Box.

Baranski asked if they were attempting to have a secret location?

Terrell said, "Absolutely".

Kimberly Eastman, 700 Spring Street, approached the podium. She stated that they will have a closed gate with posted appointment times. If the gate is closed, people can't come in and out. They understand that the neighbors want peace and quiet, which is what they (applicants) want as well.

Bochniak asked about the other parts of the request, besides the appointments – like the campfires, etc.

Terrell stated that they've discussed it and they rescind the activities requested outside of the appointment times. The reason they charge people to visit with their dogs is because he is a writer of children's books and the protagonists of his books are his Malamutes. Visitors to his book store wanted to interact with the dogs and he began charging as a deterrent so they wouldn't want to interact with them. However, people gladly paid and said the experience was cathartic. They started doing extra activities in order to feel like they were giving value to the customer rather than only letting them visit with the dogs. They also have kids' activities aside from interacting with the dogs because of height requirements for safety. He wanted to make trails for them through the woods so they have something to do, but it wasn't compliant with zoning at the current property. He further

explained that they will just stick with charging \$15 and letting people having the experience of being with the dogs rather than expanding activities.

Baranski asked about the number of dogs. He feels agnostic about the request for 12 dogs because we don't have a formula for how many dogs are allowed, outside of the residential requirements. How did the applicant arrive at 12 as the number?

Terrell stated he wanted 12 because he couldn't have 24. He loves the dogs; he has a cohesiveness with them that attracts other people and keeps bringing them to Galena to experience it. They consider his business as their number one stop.

Baranski asked how big the property was?

Terrell said about 3 acres.

Baranski pondered about the number of dogs per acre. How many is too much?

Terrell stated that the property they are at now is about an acre and a quarter and they have eight dogs. It's the front yard, about a half-acre, that they're the happiest in. They don't care for the kennel but rather love being out in the yard. This is what attracts people when they see them in the yard. The dogs live in the house with them – they do not have an issue fitting them all in that little house.

Nybo asked whether they were renting the present property?

Terrell stated that they were.

Nybo asked whether they were going to be owners of the proposed property?

Terrell and Eastman stated yes, they closed on the 5<sup>th</sup> of November.

Rosenthal asked about the fence on the back side of the property – is that a solid fence?

Terrell stated that it was a mesh fence, which was recommended. Their dogs will not go through a fence.

Rosenthal asked whether there was livestock on the other side of the fence – how will their dogs react to the livestock on the other side?

Terrell said they haven't been in the presence of livestock thus far, but it is up to him to control them. They currently have deer and raccoons, etc. in their backyard and they don't have issues. They only times their dogs bark is when they play with each other, but it's not a lot. Their breed is not known for barking.

**Trish McDonald, 480 Arlington Street, Dubuque** – McDonald stated that she's known Kim & Bret for over two years and found them driving by the current location. She continues to be amazed how cohesive they are in how they bring a new dog into the pack as they've grown their family. Malamutes are a breed that is indigenous to North America and they were bred in Alaska by Inuits as a true family

unit because they serve each other. It's amazing to see how they interact with Bret & Kim and it is truly therapeutic for visitors. She can understand if people can have reservations about the dogs, but once you're around them you will see that they are a wonderful addition. She knows that Kim & Brett are determined to be good neighbors and provide a business that adds to the Galena economy. It brings people to stay here and shop and eat.

Jansen asked Terrell whether the local book and gift store would stay at the present location or move up to the new property.

Terrell stated that it will be up at the new property and accessible only by appointment.

**Antonio Morel, 225 North Trace, Galena** – spoke in favor of the request. He stated that he's known the applicants for about 3 years. Driving on Spring Street, he has seen a couple that has taken a depressed property and beautified it with a lot of hard work and dedication. These dogs are big and intimidating, but once you get to know them, you'll see what a great trainer Terrell is and how caring he is with the dogs and how gentle they are. His business is an asset to Galena – he knows, he owns Kaladi's, and people come and ask about the dogs at his business. It's a great thing to have the applicants here. The dogs do not bark – only at noon, they howl for about 30 seconds at the noon whistle.

**Candice LeBowe, 734 North Pilot Knob Road** – spoke in favor of the request. She stated that she has 15 acres and has three cats. She has visited Plumery Tails four times with family and friends and wants everyone to know that she's invited them to her property. She said that there's no indication of dog feces at their site, that the owners take care of it and keep things clean. She would be proud to have them as neighbors.

**Ramon & Emily Ascencio, 2626 N. Troy, Chicago** – spoke in favor of the request. Ramon stated that they are not from here, they are both from Chicago and are police officers. They are used to dealing with dogs and vicious animals – these dogs are nothing of the sort. They come to Galena about 6 times a year, they love the town and to visit. They've made friends with the local business owners, including Bret & Kim. They are dog lovers and noticed Plumery Tails on their way to Dubuque and they've stopped every visit since. The degree of social order that is in place with these dogs is astounding; they have family members that are normally terrified of dogs, that they brought to Plumery Tails, and they ended-up having the time of their life. Coming from a person that has experience dealing with dogs that are bred for fighting and are mistreated in Chicago, these are some of the best conditions he has seen for animals at Plumery Tails. There is a catharsis that comes from encountering the dogs. It's one of the main reasons why they keep coming back to Galena.

**Kyle Reinhart, 1406 Amherst Dr., Schaumburg** – Reinhart stated that he is currently a student at UW Platteville and regularly visits Plumery Tails. He comes to Galena every weekend that he can to visit with the dogs. They are therapeutic for him and the atmosphere there is family.

**Mary Leibold, 145 Arrowhead Ct., East Dubuque** – spoke in favor of the request. She met Bret & Kim about 8 years ago and became hooked on their books and dogs. When Bret started increasing the pack, she began making visits to Galena to see them. She's never felt unsafe around the dogs or that she would be knocked-over. The dogs are cared-for better than most children. As far as dog messes in the yard, she doesn't look for it in their yard because they keep it cleaned up. She can't see anything but a benefit to the neighborhood and Galena if they are allowed this request.

Rosenthal asked those opposed to the request to come forward and testify.

**Phil Karberg, 622 Turney Street, Galena** – spoke in opposition to the request. He stated that we've lost sight of why we are here. We are not here because they are good with their dogs, but to find-out why they can move to school section. They want to add up to 12 dogs total – and they're saying no one can find the place? There's a pool and parks at the bottom of the hill – it's not going to be hard to find it. People are going to do the same thing in school section as on Spring Street, when they see the dogs from the road, they're going to want to stop. It won't be a private setting in school section anymore if this passes. It's going to add a lot of traffic.

Baranski asked if it would make a difference to him if the request were for fewer dogs?

Karberg said its more of the spectacle of what they're doing. It's an attraction that the neighborhood wouldn't want.

Rosenthal asked what if it wasn't a business and they just lived there with the dogs?

Karberg said it would be better – even if they're still a spectacle for passers-by, they wouldn't be able to interact with them in the way if it were a business.

Baranski asked if there is still a restriction on the number of dogs allowed on the property?

Oldenburg stated that there is a limit to three dogs for the property as a residential use.

Nybo asked if the property is residential or limited ag?

Oldenburg stated that the property is zoned as limited ag. The way private kennel reads, residential areas have a limit. Limited Agriculture district is a conservation district, technically, but this property is near other residences (existing non-conforming) in the district. If the request is denied, it's an issue that will have to be addressed.

Rosenthal asked again if they are limited to so many dogs by what they're zoned.

Oldenburg said yes. They will have to figure out what to do if it doesn't pass. The City will have to enforce the rule with them if they move in with the dogs over the limit. They may have to do another process for the private residence to allow the dogs.

Jansen asked if they have eight dogs, will they be able to keep them there legally?

Oldenburg said the way he interprets the Code, it is not allowed.

**Robert Stocks, 702 Turney Street, Galena** – Stocks spoke in opposition to the request. He stated that he lives in the neighborhood across the field from the property in question. He doesn't understand why a commercial zoning request could be considered in a quiet residential area. If this were approved, could another commercial request come in after?

Oldenburg stated that the zoning district that comprises most of that area is Limited Agriculture, so certain land uses are allowed by right or special use permit. On the table of land uses, in the ordinance, these land use requests are allowed by special use permit in the Limited Agriculture district. If it was approved, the use can run with the land, however the Board can condition the use.

Stocks also stated that the driveway to the property is accessed at a narrow intersection in the road and is dangerous.

**Bill Gehrts, 506 Jo Daviess Street, Galena** – spoke in opposition to the request. He is not opposed to people having pets. As a resident of the neighborhood, he's concerned about the noise. He thinks people will stop at this new property, just like the highway property. Currently its zoned as Limited Agriculture – the reality is, it's residential. He thinks it would be detrimental for the area to change from what it is now. Over the years, there's been talk of a dog park – having 12 dogs in one spot would be similar to a dog park.

Bochniak stated that people will stop to take a picture of a cow, so he's not concerned about the issue of people taking pictures of the dogs. He thinks it's their intent to keep it a closed, private residence and business.

Gehrts stated that there's a curve at the top of the hill, right where the house is – if people stop to take a photo from the road, it will be dangerous. That's his concern.

Baranski asked Gehrts if he was comparing this site to the property on the highway?

Gehrts said yes, he was.

Baranski asked about his earlier mention, comparing this request to a dog park. What about a dog park was he in objection to?

Gehrts stated that having a dog park next to a residential neighborhood would create noise and have more people driving by. He doesn't think this is the right place for it.

Phil Karberg approached the podium again and stated that the fence parallels the road, it's right there along the road that people will see the dogs.

**Merril Henrichs, 725 Meeker Street, Galena** – Henrichs stated that his mother lives across the street where this is located. We know that the area is zoned agriculture as it has been for a long time. Approximately 30 years ago, his father applied to put a commercial business up there at the top of the hill on his property and was turned down because they were concerned about traffic going in and out at the top of the hill. As mentioned before, that driveway is difficult to get in and out of and could cause a problem. His mother owns 43 acres up there – what is your response going to be if he comes to the ZBA and asks to put commercial up there? What happens if LaVerne Greene requests to put something commercial up there? Are they going to get turned down? Once you open it up, you open it to everybody who wants to put in a business. People found the dogs where they were before, they'll find them at this location. They will find them with social media. That section up there has always been limited agriculture and business has been denied there in the past. If you allow this you open it up for more.

**LaVerne Greene, 900 Ridge Street, Galena** – Greene stated that his family has lived up there for over 75 years and he's owned property up there for over 45 years. He doesn't see why we want to make something commercial from ag – it's been that way forever. He doesn't know why we are even thinking about doing it. It's not what we need to do. We should stay where we are – it's been that way forever. We don't know what else you're going to open up by doing it. He thinks it's time we say, hey, let's leave it like it is.

**Adam Langbecker, 1130 North West Street, Galena** – He stated that he owns the property directly across the street. He said that these dogs weigh anywhere from 60 – 100 pounds, 22-27 inches tall at the shoulder; the proposed fence around the property is four feet tall. Although it may not be common for these dogs to jump out, it is not beyond reason that they could jump over it. Illinois Malamute Association says that Malamutes have a high prey drive – no outside furred or feathered animal is safe. He has a significant amount of wildlife in his area – he believes it is going to cause additional ruckus. At the top of the hill there is some necessity to maintain speed in questionable conditions – with his driveway directly across, when they put a gate up there – he believes he will have folks turning around in his driveway, which will impact his driveway. He had a delivery person knock on his door already looking for Ms. Eastman – so there is confusion already. Coming out of his driveway, you have about 5 seconds to recognize oncoming traffic. They are a family friendly business – average age, according to the Center for Disease Control, is 12-13 years of age before a child reaches 5 feet tall. It's difficult for him to consider it a family friendly business if children cannot interact with the dogs directly and they're writing books targeted towards children. You will also have increased foot traffic at the site without sidewalks there. There will be increased howling and barking along with having 15+ people there. This will impact his privacy. He fears that they are incurring liability on the City by using the right-of-way. He noted that you can take selfie's on their application, but on their website it says that you cannot take selfie's. They say it will increase tourism traffic to Galena – at their current location it may be accurate, but at the proposed location it wouldn't if they are not visible. He thinks the quiet nature of the neighborhood will be ruined by the proposed use. It will also decrease the property value, the beauty and the chance for him to sell his home at a point in the future.

**Amy Beegle, 504 Jo Daviess Street** – She stated that she's lived there for 5 years and bought her house during the flood of 2011. Her concern is the feces coming down the hill. Let's say that it rains for 5 days in a row, are they really going to be out in the rain – picking up the piles of poop? She doesn't think so – it will wash down the hill, into the people's yards behind her and progress into her yard. Her dog doesn't even poop in her yard, they go across the street to Rec Park, she picks it up, that way she has nothing to step in when she mows her lawn. Secondly, when she bought her house, she had to ask her neighbors if she could put in a fence. She did not receive a letter of any kind of this in the mail and she is curious if she had to ask to put in a simple fence, why weren't the neighbors within a mile, or half of a mile notified this was going to be happening in their yard? People will find them; they will not be able to keep it secret.

Oldenburg noted that the notice goes to surrounding property owners within 250 feet of the property, so she would not be within that range. It is published in the paper.

**Katie Wienen 507 Jo Daviess Street, Galena** – she stated that they chose to move to Jo Daviess Street because it is quiet and they enjoy that. She asked whether people would be shuttled and if the parking spaces on the plan were for people parking there?

Oldenburg stated that he had them indicate parking space available to cover 15 people at the site, however, if they are going to shuttle people to the site, the spaces will not be necessary.

Wienen asked where the visitors will be picked-up in town?

Oldenburg stated that they will be picked-up at designated loading points downtown, such as the one near the Post Office.

Wienen asked if there will now be a line of vans downtown?

Oldenburg stated that they are using just one van. There are other businesses that have similar operations for pickup, such as Amelia's Ghost Tours, Countryside Tours, taxis, etc. It's a designated loading zone on a public street.

Wienen asked whether they discontinue shuttling people – do they lose their permit?

Oldenburg stated that it could be conditioned to approve it that way. If they alter the plan, then they would need further approval. If they violated a condition, they would possibly be revoked.

Wienen said she would like to see that condition. Also, they pay amusement tax and she assumes that by their tax payment on record, there would be 400 people going through the site in a month. She would like the board to consider that. They have concerns about the feces; they're not as concerned about the dogs, their main concern is the increase in traffic on the road because of the business and the corner is dangerous.

Rosenthal asked about all of the concern with the feces – what happens to all of the horse feces that is already there?

Wienen guessed it washes into their yard when it rains.

Rosenthal asked if the horse owners are picking it up? It's bothering him that there's opposition to dogs being there when there's horses up above already with no issues with their feces.

Amy Beegle approached the podium again and stated that the difference between horse feces and dog feces is that horse feces is fertilizer. Dog feces isn't, it's plain and simple. She can fertilize her yard with horse poop. If she's planting a garden in her yard – horse feces is going to help it, dog feces is going to ruin it. It's plain and simple. Where those horses are, it is actually farther off.

Merrill Henrichs approached the podium again and asked to confirm whether they're bringing up to 15 people to the site per time? (confirmed) Under the request, are they required to have a separate bathroom facility if it's a commercial business?

Oldenburg stated that the restrooms in the house, since there are no alterations, would be used. It is possible for them to use a porta-potty down by the shed, with proper screening. It's a grey area for the City because we do not have a plumbing inspector, which that falls under. The Illinois State Plumbing Code determines the restroom. The City looks at ADA compliance in restrooms if they are required.

Henrichs asked if there would have to be water and sewer main run up to the site because of the new commercial business?

Oldenburg stated no, there is existing development there already so no water & sewer is needed.

Henrichs asked if adding a commercial business to the septic system will add stress to the system, where is it going to go?

Baranski stated that if it got to that point, you would look at the plumbing code and a decision would be made about any adjustments needed to the system to accommodate any increase in load. It can be done to have well and septic.

Henrichs said now you have a porta-potty, which will detract from how pristine the area looks. It's supposed to be a nice looking property and now it's going to have a porta-potty on it. Now people are going to stop and take pictures of the porta-potty?

**Paula Kaiser, 1808 Field Street, Galena** – stated she doesn't want a business behind her. If there's one, then there's going to be another and another and another. She has a dog, they can't guarantee their dogs aren't going to jump the fence and come down to her yard and attack her dogs and her grandchildren. She doesn't want a business in her backyard.

Phil Karberg approached the podium again and stated that regarding ADA compliance, he's been in the trades all of his life. Any time there's been a commercial job or an improvement to a commercial job, a public place has to have a men's and women's ADA compliant bathroom before it opens. They don't open the door until it's done. That's been every job he's ever been on.

Baranski stated he's not disagreeing. Before they were approved, if it were open, they would have to comply with the Illinois Plumbing Code and Illinois ADA standards. In those books, it will determine which type of facility – if it is required, what is required and what it would need to be. That is a building department issue, not a zoning issue – it's beyond the zoning board.

Karberg stated that regarding the septic system, it is based on the gallons used. Do they have the property there to absorb the impact of more people on the system? It's something that needs to be considered.

Baranski said yes, it needs to be determined by an engineer. There are multitudes of systems that can be employed, but again, it's something that the building department covers.

Karberg asked if it is something that has to be approved?

Oldenburg stated it's not a zoning criteria.

**Gerry Greiner, 1126 North West Street, Galena** – stated that she lives right across the street from them. She stated that you have to get the color of your roof approved, the house approved – did they get the fence approved?

Oldenburg stated that they did get approval for the fence as an appropriate fence type with a building permit.

Greiner stated that she is against it. She hopes the board considers turning it down.

### **Testimony Presented in Rebuttal:**

Adam Johnson thanked everyone for their testimony. Looking at the pro's, there's been a lot of testimony that these people have spent a lot of time and money improving their business. It's been these people that keep coming back and spending their money in town. They don't want to run a business where visitors come and there's dog feces all over the place – it is a clean and well-run business. This isn't zoned as a residential district; it is near residences but it is zoned as Limited Agriculture. Horses and livestock and other limited ag uses would be similar to the proposed use with dogs in a fenced-in area. Outdoor Entertainment and Commercial Animal Boarding are allowed in this district. There are other uses within Outdoor Entertainment that are far noisier and more intense than what they are proposing and it has been determined that they would be possibly acceptable in Limited Ag. This is going to be by appointment only – not open to walk-in. Terrell has stated that he has other responsibilities and this is complimentary to his writing of children's books. People driving by are not going to be encouraged to stop. By picking up people and dropping them off downtown – he is limiting traffic along the street. If you look at residential as opposed to limited ag – this isn't going to be residential. These people are living in limited ag, not residential.

Kim Eastman stated she understands everyone's concern – she would be a little nervous as if she heard eight dogs were moving into the area. The height of the fence wasn't determined by them – if it were up to them, they would have a 6-foot privacy fence where no one could see their dogs; but that was determined by the City code. Their dogs do not jump fences. Bret is cutting down trees to enhance the beauty and make it clearer for drivers to see around the corner. The new fencing is different than what is on Spring Street. The new fencing will be four panel fence and a barrier fence. We do not want the traffic any more than you do. They have turned away a lot of business and are not driven by the dollar. They have jobs – this business is supposed to be putting books into the hands of children and pictures taken with the dogs. It turned out that the public demanded more interaction with them – which is why they went down this road. It is meant to give people memories of a lifetime. They want to control it by bringing people in by appointment only. We are not open after dark, so you won't have to worry about noise problems – we will probably only be open until 4:00. They will only be open Thursday through Monday and by appointment only. As far as the restrooms go – they've rented a porta-potty for the past 6 months at \$135 – Matt is right, they have to screen it and put it behind a fence, so no one can see it. It seems people only use it 3-4 times per month; it is not worth even renting it, hardly anyone used it. The dog feces running down the hill is not even a thought for her – they do clean their yard in the pouring rain or 30 below, it doesn't matter, they clean it up. She doesn't want her dogs walking through that. Every night, they sleep in the house with them and don't bark outside in the evening. She is not clear on the amusement tax questions – they charge for people to see their dogs but if people buy merchandise they let them see them for free.

Bochniak asked if they are keeping the dogs in the backyard?

Eastman said yes – they're putting a fence in the front yard to keep people out, not to put the dogs out front. They want to keep fencing up to keep people from seeing them.

Terrell stated that as far as the fencing, they've put up stage 1 fencing to contain the dogs. When they put the fences up, they did that to keep people from coming onto the property. For the first year and a half – he didn't have fencing up on highway 20; he would sit outside and dogs would watch deer across the street and wouldn't chase after them. His dogs have never jumped the fence in 3 years. If he leaves the gate open, they'll get out but he calls them and they come back. When he is out walking the dogs and they approach people, he tells them to stop and wait until people walk by and they obey him. They are well behaved dogs – they are not jumping fences and running after children. His dogs are quite a site, no matter where they move – people will always want to see them. This is a discrete area where they want to move – the tourists will not know where they are at as easily, it will most likely be locals that would know where they're at.

Bochniak asked if they've had issues with their neighbors where they are at now?

Terrell stated that people behind them that commented how they will miss them when they move. They miss even the howling at the noon whistle. People say all the time on how their dogs are quiet. They have a lot of great reviews online and they have 3000+ likes on Facebook. His dogs are well-behaved and are not going to be disturbing.

Nybo asked if he has a backup plan.

Terrell stated he has a plan – he's not going to sit back and let them be taken. They want Galena to be a happy place to be.

Nybo clarified – what he is asking is, if they are denied – do they have a backup plan?

Terrell stated that he's a tree trimmer and he writes books. This all came about by demand from the public. His plan is he goes back to work, but his dogs are still going to be there. If people have curiosity, they'll go to look at the dogs.

Nybo asked, if you have another location – could you transport the dogs to another location?

Terrell said the situation is they are like their children; they are not dogs to them. They sleep with them, they eat with them, they stay with them. He has been demanded by the public to be home with them – whether he has 4 or 8 or 12. A lot of them are rescue dogs that came from bad homes.

Nybo asked to clarify his question.

Terrell said his plan B is to go back to tree trimming.

Eastman stated that their plan B is to move away from Galena.

Nybo asked if you live at this residence with the animals, can you bring the animals to a place like you have on Spring Street but a different location.

Terrell said that they have tried that, but when they looked at it with Matt they found they would have to go through the same process anywhere else in town.

Eastman said they tried going through the County and finding a place outside of town, away from residents. County said it could not happen, it wouldn't be granted. They've been working with Matt, trying to find the best place in town for the use and this was the possible one.

Adam Langbecker asked to clarify about the 10-minute waiver. It sounds like there's a lot of liabilities involved with that as well as a lot of restrictions. There is a pool just minutes away – your increased foot traffic to the site will be from local kids during the summer that will walk up there to see the dogs.

Terrell stated that the waiver is about conduct on the premises. They ask that you don't run with the dogs. They say that they don't allow selfies so they are not distracted and focus on the dogs. They ask that you don't scream or yell at the dogs or give them commands. He is the master of the pack and they only listen to him. The waiver is primarily do's and don'ts for everyone's safety. If the rules are broken, they ask them to leave.

Merrill Henrichs stated that Adam Johnson likened the dogs to livestock – that is not the case. It's been agriculture for the last 50 years and his father's request has been the only commercial request during that time. There's horses, machinery, beef cattle, corn and hay. Either it's agricultural or if you allow commercial, you will be answering for more requests for commercial.

Adam Johnson rebutted that there are a lot of different uses allowed in agriculture and if people want to come and request those allowed uses, he's all for it.

**MOTION:** Bochniak moved, seconded by Jansen to close the Public Hearing on Cal. No. 16S-05.

Motion carried on voice vote.

**MOTION:** Bochniak moved, seconded by Holman to deny the Special Use Permit request for Cal. No. 16S-05.

**Discussion:** Bochniak knows the current location – it always looks nice and he hasn't heard about any issues. Bochniak loves dogs, but he believes that the Jo Daviess Street location just has too many neighbors. He wishes the location were more isolated. He feels the privacy of the neighbors is jeopardized if they are allowed to operate the business at this location.

Jansen asked about the liability of Muir Street. Has this been vacated.

Oldenburg said the City did not vacate the street. The Council gave them a license to use the Muir Street property – there is no expense except for the filing at the Courthouse. The City preferred to retain ownership. Clauses are in place to revoke this license.

Nack said the property owners would have to provide insurance and name the City on the policy. The City has the right to revoke the license.

Baranski said he is no worried about the dog side of this request. It seems there is enough property and the fence is high enough. His issue is that the dogs are kind of like an attractive nuisance. They are spectacular

dogs and over time people will find them and they will stop by. This can have a negative effect on the neighborhood.

Rosenthal said he isn't against the dogs – it is a neat thing business, but is concerned about safety of the location. People already stop in the middle of the road while they are driving to look at the cows and horses. This causes a safety issue for others driving on Jo Daviess Street.

Baranski and Rosenthal said the concept is a great, but both agreed the location is not good.

Baranski wondered what life in this area would be like in a couple years after people learn that the business is located here.

Nack wanted the Board to be clear that the request was twofold – to allow Outdoor Commercial Entertainment and Commercial Animal Boarding in a Limited Agriculture District.

Bochniak said his motion was to deny both uses.

Bochniak reviewed the approval criteria.

**Approval Criteria & Recommendation:**

The purpose of a special use review is to provide an opportunity to utilize property for an activity, which under usual circumstances, could be detrimental to other permitted uses and which normally is not permitted within the same district. A special use may be permitted under circumstances particular to the proposed location and subject to conditions that provide protection to adjacent land uses. A special use is not a use by-right and one that is otherwise prohibited without approval of a special use permit.

The application shall demonstrate that the proposed development will comply with the following:

- (1) *Site plan review standards.* All applicable site plan review criteria in § 154.914. **Complies with.**
- (2) *District standards.* The underlying zoning district standards established in § 154.201 through § 154.209 including the defining characteristics of the district; **Complies with.**
- (3) *Specific standards.* The land use regulations established in § 154.406; **Complies with.**
- (4) *Availability of complementary uses.* Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to: schools, parks, hospitals, business and commercial facilities, and transportation facilities. **The Outdoor Commercial Entertainment does not comply but the kennel operation would comply.**
- (5) *Compatibility with adjoining properties.* Compatibility with and protection of neighboring properties through measures such as:
  - (a) *Protection of privacy.* The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and/or

vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants; **Both uses do not comply.**

(b) *Protection of use and enjoyment.* All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property. **Both uses do not comply.**

(c) *Compatible design and integration.* All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include: buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise, and odors. The plan must ensure that noxious emissions and conditions not typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties. **The outdoor entertainment does not comply but the kennel could possibly comply.**

**MOTION:** Baranski moved to amend the original motion to allow the commercial animal boarding Special Use Permit with a limit of twelve dogs while still denying the SUP outdoor amusement request.

Motion died for lack of a second.

As Roll Call was:

Bochniak	Yes
Cook	Recused
Holman	Yes
Jansen	Yes
Nybo	Yes
Baranski	No
Rosenthal	Abstained

Motion carried.

Cook returned to the table.

Cal. No. 16PD-02, Applicant and Owner: Tina Knautz, 400 Wild Indigo Lane, Galena, IL 61036. Location: Lot 4 of the Gateway Park Subdivision, part of Section 21, Township 28 North, Range 1 East of the Fourth Principal Meridian, City of Galena, Jo Daviess County, Illinois. Common Address: 400 Wild Indigo Lane, Galena, IL 61036. Request for approval of the Final Development Plan of the PUD for Lot 4. **PUBLIC HEARING**

Baranski asked to be recused from the next two agenda items as he is the architect for the project.

Rosenthal allowed the request.

**MOTION:** Bochniak moved, seconded by Cook to open the Public Hearing on Cal. No. 16PD-02.

Motion carried on voice vote.

City Attorney Nack swore in all those persons who wished to testify at this public hearing.

Jim Baranski 1015 S Bench presented for the applicant. The lot being referred to is Lot #4. Originally a building was shown with a north south orientation but now it is more southerly. Tina Knautz is planning on building a 'green' salon and spa. She will focus heavily on using organic products, reducing waste and conserve utilities. The building design is reflective of that. On site detention will be handle by a bio swale which will handle parking lot run off by holding the water and slowly releasing it. There will be a flat roof which will eventually become a 'green' roof. Raised trays with greenery will be installed on the roof, possibly in stages, that will retain much of the roof water. Any extra water will be directed to the bio swale. This is a very sustainable and efficient way to handle runoff. He asks that the Board approve the plat as presented.

Nybo asked if at some point the plants would need irrigation.

Baranski said they may.

Bochniak said the types of plants that are typically used are very hardy and can with stand dry periods.

Baranski said the plants also provide insulation for the building.

No one was present to testify in opposition to the request.

**MOTION:** Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 16PD-02.

Motion carried on voice vote.

**MOTION:** Jansen moved, seconded by Holman to approve the request for approval of the final Development Plan of the PUD for Lot 4 as presented, Cal. No. 16PD-02.

**Discussion:**

Jansen reviewed the approval criteria:

**Final PUD Plan Approval Criteria** – A final development plan application shall demonstrate conformance with all of the following:

- (a) The approved ODP, if applicable; *not applicable*
- (b) The approved preliminary development plan; *Final plan has no change from approved preliminary plan and adheres to the PUD district standards set forth by the City Council.*
- (c) The approved preliminary plat; *not applicable*
- (d) The approved PUD/TND rezoning ordinance; *Final plan is in conformance with the approved standards of the rezoned PUD ordinance.*

- (e) All other applicable development and construction codes, ordinances, and policies; *Final plan meets other applicable codes and City Staff will ensure approval conditions set forth by the City Council are met before building permit is issued.*
- (f) The applicable site plan review criteria in § [154.914](#); and *Final plan meets the applicable site plan review criteria.*
- (g) The applicable final plat criteria in [Chapter 153](#), Subdivision Regulations. *Not applicable.*

As Roll Call was:

Cook	Yes
Holman	Yes
Jansen	Yes
Nybo	Yes
Baranski	Recused
Bochniak	Yes
Rosenthal	Yes

Motion carried.

Cal. No. 16HCO-02, Applicant and Owner: Tina Knautz, 400 Wild Indigo Lane, Galena, IL 61036. Location: Lot 4 of the Gateway Park Subdivision, part of Section 21, Township 28 North, Range 1 East of the Fourth Principal Meridian, City of Galena, Jo Daviess County, Illinois. Common Address: 400 Wild Indigo Lane, Galena, IL 61036. Request for Non-administrative Highway 20 Development Permit to allow construction of a building and associated site improvements. **PUBLIC HEARING**

**MOTION:** Bochniak moved, seconded by Jansen to open the Public Hearing on Cal. No. 16HCO-02. Motion carried on voice vote.

City Attorney Nack swore in all those persons who wished to testify at this public hearing.

Baranski again presented the application. In reviewing the landscape plan you can see that the parking is split into two areas, there is an access driveway for any service vehicles, there is a terrace in back and the necessary screening and landscaping points have all been provided for. The building will not break the horizon – you will see it but it is significantly lower and will not block the views of Galena. The building has been sited to take maximum advantage of solar properties. The building is not meant to look historic - which complies with the Highway 20 corridor requirements. The new structure respects and reflects the property that it is being built on and surrounded by.

Bochniak asked about outdoor lighting.

Baranski said everything is down lit or shielded. Ambient light will be visible from the building at night but the dark skies premise was adhered to.

No one was present to testify in opposition to the request.

**MOTION:** Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 16HCO-02.

Motion carried on voice vote.

**MOTION:** Jansen moved, seconded by Bochniak to approve the request for a Non-Administrative Highway 20 Development Permit to allow construction of a building and associated site improvements for Cal. No. 16HCO-02.

**Discussion:** Jansen reviewed the Approval Criteria:

**Highway 20 Development Permit Approval Criteria** - The application shall demonstrate that the proposed development will comply with the following:

- (1) All applicable site plan review criteria in § [154.914](#); *Proposal meets all site plan review criteria.*
- (2) The overall context of the corridor and the goals for new development as described in Chapter [III](#) of the Design Manual; *The building and site improvements support the goals of: Promote residential and business diversity and vitality; Create a quality image of development; Enhance the onsite experience of occupants and visitors of development; and Coordinate access and traffic between properties.*
- (3) The corridor development concepts described in Chapter [IV](#) of the Design Manual; *This improvement supports the encouragement highway-oriented development adjacent to limited highway access points. Regarding the Galena “Edge Corridor” Design Character, “the design character outside of the historic district should be unique, unified and high-quality and create the image of a stable edge corridor for the historic community of Galena. This supports the encouraged design character that respects the historic character of Galena, yet does not confuse or detract from the authentic qualities of the original structures and urban fabric of the Galena National Register Historic District”.*
- (4) The proposed character of the applicable design districts as described in Chapter [V](#) of the Design Manual; *This request supports the character of the Southeast Hilltop Commercial District by: Visually unifying through consistent use of high quality materials as a design element; coordinated access and parking, high quality site design and amenities; and high quality materials.*
- (5) The proposed pattern of development for the Highway 20 Corridor as described in Chapter [VI](#) of the Design Manual; *n/a, site is under 10 acres in size.*
- (6) The standards for building orientation, design and materials as described in Chapter [VII](#) of the Design Manual; *and Architectural building standards are met by upholding Midwest regional character with simple forms in a rectangular configuration. Public entry is visible from the street and parking areas. Windows and doors meet the 30% minimum requirement. Wall materials are high-quality cement board on all sides. Corten steel accent walls provide additional high-quality appeal.*

- (7) The standards for site features and elements as described in Chapter [VII](#) of the Design Manual. *Landscaping points are met and placement is adequate to create buffer between development and adjacent residential land uses.*

As Roll Call was:

Jansen	Yes
Nybo	Yes
Baranski	Recused
Bochniak	Yes
Cook	Yes
Holman	Yes
Rosenthal	Yes

Motion carried.

Baranski returned to the table.

### **COUNTY ZONING**

None

### **WORKSESSION/OTHER**

None

### **PUBLIC COMMENTS**

None

**MOTION:** Bochniak moved, seconded by Cook to adjourn the meeting at 9:25pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price  
Zoning Board Secretary