



# TOWN COUNCIL COMMUNICATION

**DATE** April 18, 2023

**FROM:** Thad Chambers, Town Administrator

**AGENDA ITEM:** **CUP-2023-001** Public hearing to consider an ordinance amending the Town of Bartonville Code of Ordinances, Chapter 14, Article 14.02, Exhibit "A," Ordinance 361-05, Zoning Ordinance, by amending Chapter 5, Agricultural District (AG), Article 5.2, Uses Permitted, by granting a Conditional Use Permit to authorize equestrian uses and special education services with equine therapy located at 2700 FM 407 East. *(The Planning and Zoning Commission recommended approval with conditions by a vote of 5 to 0 at its April 5, 2023 meeting.)*

## **APPLICATION ANALYSIS:**

**Applicant:** CCM Engineering (consultant), on behalf of the Education Leads to Success Foundation (property owner)

**Zoning:** Agricultural District (AG)

**Summary:** The applicant has applied for a Conditional Use Permit to authorize equestrian uses and special education services with equine therapy located at their existing facility located at 2700 FM 407 East., described as A.R. Loving Survey, Abstract Number 736, Tracts 5, 5A(1)(PT), 6(PT), and 7A. There is an existing facility whose use has been "grandfathered in" as an existing legal nonconforming use upon the adoption of the Bartonville Zoning Ordinance (BZO) (Ordinance 361-05, et. seq.). "Equestrian Center" and "Animal-Assisted Therapy" are both conditionally-permitted uses in the Agricultural District.

The Education Leads to Success Foundation has entered into a lease partnership with Universal Academy, an open-enrollment charter school, to establish a new school facility on their 100-acre site which is locally known as "CJ's Legacy Ranch". Because the existing equestrian center is an existing legal nonconforming use under the current Bartonville Zoning Ordinance, the applicant is required to first acquire the Conditional Use Permit for the existing use before adding any new uses to the site. In addition, Universal Academy is an equestrian-based charter school which is expected to have a close operational relationship with the existing equestrian facility – this would be considered an expansion of a legal nonconforming use, which is prohibited in BZO Section 1.11.

Bartonville Zoning Ordinance Section 16.10 lists the criteria for approval of a proposed conditional use permit:

1. The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;
2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
3. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhood and includes improvements either on-site or within the public rights-of-way to mitigate development-related adverse impacts, such as traffic, noise, odors,

visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;

4. The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;
5. The proposed use incorporates roadway adjustments, traffic-control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;
6. The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and
7. The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

The CUP application is for an existing equestrian facility. The purpose of the CUP is to bring the existing use of the property into compliance with the current Bartonville Zoning Ordinance. One of the primary objectives of the Comprehensive Plan is to protect the existing residential areas and to preserve the rural atmosphere of the entire community. The existing equestrian facility has long contributed to the character goals described in the Comprehensive Plan. In addition, the Agricultural zoning district is intended to accommodate those property owners who wish to maintain active agricultural operations on their property. Equestrian-centered uses align with this intended use. Approval criteria 1, 2, and 7 are met with the existing use.

Approval criteria 3-6 are not altogether applicable in this case since this CUP is for an existing facility. Staff are not aware of any problems from the existing equestrian facility with regard to adverse effects to the roadway system or neighboring property owners that would need to be addressed through this CUP. Through discussions with the applicant, staff are aware that a site plan, site civil plan, and plat submittals will be required to prepare the site for the new school facility. As there will certainly be additional impacts generated from the new school facility, staff will identify mitigation measures to address those future impacts with subsequent application submittals.

#### **RECOMMENDED MOTION OR ACTION:**

Planning & Zoning Commission is recommending approval with the following conditions:

1. Soil in the equestrian arenas is to be kept in a dust-free condition.
2. Lights in the equestrian arena and all outside equestrian operations shall cease at 10:00PM nightly.
3. All amplified sound in any equestrian accessory building or outdoor equestrian arena shall comply with the Town's noise ordinance, as amended, or the terms of this Ordinance, whichever is more restrictive. Any amplified sound in any equestrian accessory building or outdoor equestrian arena shall comply with the following sound level when measured at the property boundary of the receiving land: 62 decibels as measured on a sound level meter using the A-weighting network. Notwithstanding any provision herein, any amplified sound in any equestrian accessory building or outdoor equestrian arena shall not unreasonably disturb or interfere with the peace, comfort, and repose of neighboring persons of ordinary sensibilities. This provision applies between the hours of 8:00AM to 7:00PM. Amplified

sound in an equestrian accessory building or outdoor equestrian arena outside of stated hours is prohibited.

4. If manure is not spread on the property, manure must be contained in a compost structure at least 250 feet from any property line and removed weekly or composted.
5. There shall be no more than 6 horse training clinics per year, and no more than 4 horse show events and/or additional horse training clinics per year, at a rate of no more than 2 of such events per month and events may not occur on consecutive weekends. A horse training clinic shall include no more than 30 participants per day not to exceed 2 days. A horse show event is defined as including more than 30 participants per day not to exceed 2 days.

#### **PUBLIC COMMENT**

As of this writing the Town has not received any public comment.

#### **ATTACHMENTS:**

- CUP Application
- Letter mailed to property owners within 200' with location map and mailing list
- Published Legal Notice
- Draft Ordinance