

**JUNCTION CITY/GEARY COUNTY
METROPOLITAN PLANNING COMMISSION
BOARD OF ZONING APPEALS**

**October 14, 2010
7:00 P.M.**

Members Present

Brandon Dibben
Maureen Gustafson
Rick Ziegler
John Moyer
Mike Ryan
Mike Steinfort

Members Absent

Ken Mortensen

Staff

David Yearout
Shari Lenhart

1. CALL TO ORDER AND ROLL CALL

Chairman Mike Steinfort called the meeting to order at 7:00 p.m. and noted a quorum present.

2. APPROVAL OF MINUTES

Chairman Steinfort noted that the packet contained the August minutes and not the September minutes. Approval of the September minutes will be considered at the November meeting.

3. OLD BUSINESS

Item No. 1 – Case No. FP 09-01-10 – Final Plat of Sampson 2nd Addition.

Consideration of the final plat of the Sampson 2nd Addition, a replat of Lot 2, Block 1, Sampson Addition to Junction City, Kansas, as submitted by Kaw Valley Engineering, agent, on behalf of James D. Sampson, owner. The property is located at the northwest corner of Chestnut Street and East Street.

Chairman Steinfort noted that this case was tabled from the last meeting in order to obtain documentation needed to address the cross lot access easement and other issues raised by staff. He asked for the staff update.

Mr. Yearout handed out copies of a Cross-Access Easement and Maintenance Agreement between Kandarpam Hotels, LLS, Sreeraman Viswanathan Rangarajan, Owner (Holiday Inn Express); and James D. and Diane E. Sampson, (Owners/Developers); addressing the “travel easement” from Cotty Drive to East Street along the south side of the Holiday Inn Express. He stated this information was received

earlier in the day. The agreement has not been executed; but the agent states both parties agree with the written stipulations.

Mr. Yearout briefly reviewed the staff report, stating that the proposed replat takes one lot and makes three. The intention is to create two new lots for the development of two additional restaurants at this location. Mr. Yearout referred to an engineering drawing provided by the agent showing the roadway/access points in question and how it all ties together with the Freddy's and Arby's restaurants to the west. He explained that the private roadway area is wide enough to handle emergency vehicles and equipment. Staff is satisfied that all concerns have been appropriately addressed. The final plat drawings and the Cross-Access Easement document, when executed, cover all previous concerns.

Chairman Steinfert called for questions of staff. Commissioner Ryan asked if a stop sign would be installed onto East Street. Mr. Yearout stated he did not know. That is a private drive onto a public street and stop signs are not normally installed at those locations. If one is placed, it would be by the private landowner and not the City.

Commissioners questioned whether the Holiday Inn property owner is willing to sign the proposed Cross-Access Easement. Leon Osbourn, Kaw Valley Engineering, representing the applicant, stated that Mr. Rangarajan, (Holiday Inn Express, owner), has presented the document to his attorney. Mr. Osbourn stated that Mr. Rangarajan is in agreement with the proposal. He has asked for a sidewalk from the front door of the Holiday Inn to the proposed new lots for the restaurants and the developer of Sampson's Addition has agreed.

Mr. Yearout assured the Commission that the Cross-Access Agreement will be executed prior to submittal to the City Commission. The Final Plat has incorporated all other concerns previously addressed by Staff and the Commission.

There being no other appearances or questions, Chairman Steinfert called for a motion.

Commissioner Moyer moved that Case No. FP-09-01-10, the application of Kaw Valley Engineering, agent, on behalf of James D. Sampson, owner, requesting approval of Sampson 2nd Addition, a replat of Lot 2, Block 1, Sampson Addition, Junction City, Kansas, be approved, subject to all corrections recommended by staff and the execution of the Cross-Access Easement document; and the Chairman and Secretary be authorized to sign the plat and forward it to the City Commission for final approval. Commissioner Gustafson seconded the motion and it carried unanimously.

4. NEW BUSINESS

Item No. 1 – Case No. FP-10-01-10 – Final Plat of Bramlage Addition

Chairman Steinfert opened consideration of the final plat of the Bramlage Addition, a replat of Lot 2, Block 4, West Slopes Addition, and a portion of Lot 11 and all of Lot 16, Block 6, Rimrock Addition Unit No. 2, to Junction City, Kansas, as submitted by Kaw

Valley Engineering, agent, on behalf of Ron Bramlage, owner. The property is located on the northwest corner of Ash Street and Eisenhower Street.

Mr. Yearout reviewed the staff report detailing issues and concerns relating to this plat. He indicated the purpose of this plat was to clean up ownership, acknowledge the reshaping of the lots, clarify easement access for utilities, and address access points to the public streets. The area is zoned "CR" Commercial Restricted, which is the most restrictive commercial zoning category and which allows small business and professional offices, medical and dental offices, and other similar small business types. The owner has submitted plans for a "spec" building at the corner of Eisenhower and Ash. Mr. Yearout explained where and how utility services would be supplied. He stated the main concern deals with location of access points for both Ash and Eisenhower Streets.

Mr. Leon Osborn, Kaw Valley Engineering, representing the applicant, stated that Kaw Valley had done a traffic study for this area within the past year in response to concerns raised by staff at that time. The proposed ingress/egress is consistent with required guidelines. The access point on Eisenhower will be as far north as possible. This location will allow adequate flow into traffic on Eisenhower and not cause problems at the intersection with Ash, primarily because Eisenhower is a four-lane road at this point.

General discussion ensued regarding traffic issues. Consensus was that restricted access points for Eisenhower and Ash Streets need to be shown on the proposed plat.

Chairman Steinfert asked if there were any additional questions of staff or Mr. Osborn. Hearing none, he called for a motion.

Commissioner Moyer moved that Case No. FP-10-01-10, application of Kaw Valley Engineering, agent, on behalf of Ron Bramlage, owner, requesting approval of Sampson 2nd Addition, a replat of Lot 2, Block 4, West Slopes Addition, and a portion of Lot 11 and all of Lot 16, Block 6, Rimrock Addition Unit No. 2 to Junction City, Kansas, be approved, subject to restrictive access points being designated on the plat for Eisenhower Street and Ash Street and all other corrections recommended by staff, and the Chairman and Secretary be authorized to sign the plat and forward it to the City Commission for final approval. Commissioner Dibben seconded the motion and it carried unanimously.

Item No. 2 – Public Hearing on Case TA-10-01-10 – Public Hearing on the proposed text amendment to both the City and County Zoning Regulations regarding the requirements for approval of day care operations.

Chairman Steinfert called the public hearing to order on the proposed text amendments to the Junction City and Geary County Zoning Regulations concerning the definition of a family day care home. Chairman Steinfert noted this hearing was initiated by motion of the Metropolitan Planning Commission.

Mr. Yearout reviewed the history surrounding the need for this text amendment. Briefly, state law changes eliminated the "registered family day care home" (number of children limited to six (6) or less); and now requires all home-based day care facilities to be

“licensed” (up to ten children allowed). The proposed text change establishes a “family day care home” category that will be limited to no more than six (6) children, regardless of KDHE license allowing up to ten (10). Any day care wishing to have more than 6 children will be required to apply for a Conditional Use Permit or be located in the appropriate zone. A Child Care Certificate is issued to each day care upon meeting all City/County inspection requirements. Mr. Yearout stated that other city/county documents dealing with day cares will be appropriately modified.

Commissioner Gustafson asked if there are any day cares with over 6 children in operation. Mr. Yearout stated there is none known now, but is sure some will be identified during the certification process. KDHE requires yearly License renewal, at which time the applicants are instructed to apply for the Child Care Certificate, which will run concurrently with their KDHE license.

Chairman Stienfort asked if there were any additional questions of staff. There being none, he asked if there was anyone present wishing to speak on this matter. Being none, he closed the public hearing. There being no further questions or discussion, he called for a motion.

Commissioner Gustafson moved that the proposed amendments to the Junction City and Geary County Zoning Regulations establishing a Family Day Care Home category to allow these facilities to be permitted in accordance with the existing requirements of the Zoning Regulations for Junction City and Geary County be recommended for adoption by the City Commission of the City of Junction City and the Board of County Commissioners of Geary County. Commissioner Ryan seconded the motion and it carried unanimously.

Item No. 3 – Case Z-10-01-10 – Public Hearing on request to rezone property at the northeast corner of Franklin and Chestnut from “RM” Multiple Family Residential to “CSR” Service Commercial Restricted District.

Chairman Steinfort called the public hearing to order on the request of Ed Roberts, Real Estate Resources, agent, and Auto Craft, Inc., Phil Turner, contract buyer, on behalf of G L Real Estate Ventures, owner, to rezone the property at 107 South Franklin and located at the northeast corner of Franklin Street and Chestnut Street.

Mr. Yearout stated the property immediately to the west was rezoned earlier this year to allow the establishment of the Auto Craft facility on East Chestnut Street. The property in question is being acquired by Auto Craft so they can own all the property fronting on Chestnut Street from Franklin Street to the railroad tracts. The applicant has indicated the residential usage may remain for some time, but if business is successful this will allow for expansion.

Mr. Yearout indicated that staff believes this is a reasonable zoning classification for this property. Chestnut Street is becoming much more commercial and this brings all adjoining property on Chestnut into the same zoning classification. Mr. Yearout stated that Mr. Roberts, agent for Auto Craft, is present, to address any additional questions by staff.

Mr. Roberts indicated that, if necessary, the current home may be used by the local store manager until such time the area is needed for expansion.

Commissioner Gustafson asked if the rezoning is approved, can the property still be used for residential. Mr. Yearout explained that it would be considered grandfathered until the residential use ceased to exist or 50% or more of the structure was damaged. However, given the ownership arrangement, the grandfathering situation was not a concern.

Chairman Steinfort asked if there was anyone else present wishing to speak on this application. Being none, Chairman Steinfort closed the public hearing. There being no further questions or discussion, Chairman Steinfort asked for a motion.

Commissioner Gustafson moved that Case No. Z-10-01-10, concerning the request of Ed Roberts, agent, and Auto Craft, Inc., Phil Turner, contract buyer, on behalf of G.L. Real Estate Ventures, owner, to rezone property at 107 South Franklin Street from "RM" Multiple Family Residential to "CSR" Service Commercial Restricted be recommended for approval by the City Commission based on the reasoning stated in the staff report and as presented at this public hearing. Commissioner Moyer seconded the motion and it carried unanimously.

RECESS AS METROPOLITAN PLANNING COMMISSION

Commissioner Ryan moved to recess as the Metropolitan Planning Commission and convene as the Board of Zoning Appeals. Commissioner Ziegler seconded the motion and it carried unanimously.

CONVENE AS BOARD OF ZONING APPEALS

1. OLD BUSINESS

Item No. 1 – Case No. BZACU-06-02-10 – Public Hearing on request for a Conditional Use Permit to allow a Day Care Home at 109 Arapahoe Court, Junction City, KS.

Chairman Steinfort called the continued public hearing to order on the application of Renee A. Taggart, owner, for a Conditional Use Permit to allow the operation of a Licensed Day Care Home for not more than 10 children at 109 Arapahoe Court, Junction City, Kansas.

Mr. Yearout stated the text amendment to the zoning regulations (considered by the MPC earlier in the meeting) was recommended for approval by the Metropolitan Planning Commission. The City and County Commissions will address this issue at their respective meetings. He reiterated that this application will become moot once the Zoning Regulations have been amended. He recommended the public hearing be continued to the December meeting. There were no other appearances on this matter.

Commissioner Gustafson moved to continue the public hearing on this case to the December 9, 2010, meeting. Commissioner Ryan seconded the motion and it carried unanimously.

Item No. 2 – Case No. BZACU-08-01-10 – Public Hearing on request for a Conditional Use Permit to allow the operation of a concrete batch plant.

Chairman Steinfort opened the continued public hearing on the application of Jon Penny, agent, for Penny Concrete, Inc., leaseholder, on land owned by Poland Farms requesting a Conditional Use Permit to operate a concrete batch plant on property adjacent to Highway 57, just north of Junction City, Kansas.

Mr. Yearout stated that the applicant has formally requested his application be withdrawn. Their plans are to work from the Meier’s Concrete facility at 2609 North Jackson. Staff recommends the withdrawal request be accepted as requested by Mr. Penny.

Commissioner Gustafson moved that the request of the applicant to withdraw Case No. BZACU-08-01-10, the request of Jon D. Penny, agent, for Penny’s Concrete, Inc., requesting a Conditional Use Permit to operate a concrete batch plant on property located along Highway 57 just north of Junction City, Kansas, be accepted. Commissioner Ryan seconded the motion and it carried unanimously.

2. NEW BUSINESS

No new business was brought before the Board.

ADJOURN AS BOARD OF ZONING APPEALS

Commissioner Moyer moved to adjourn as the Board of Zoning Appeals and reconvene as the Metropolitan Planning Commission. Commissioner Ryan seconded the motion and it carried unanimously.

RECONVENE AS METROPOLITAN PLANNING COMMISSION

5. GENERAL DISCUSSION

Mr. Yearout briefed the Commission on the following items:

1. A student study for the spring semester again from Kansas State University. Contact has been made with Professor Keller regarding a study of the Rucker Road corridor from K-18 to US 77, with special emphasis on the Hellend property, which has been “gifted” to the City for use as a park. Discussions have just begun, but indications are the project will go forward.
2. The City Commission overturned the Metropolitan Planning Commission’s recommendation for the rezoning at Webster and Pine. The vote was 4 to 1 in favor of approving the rezoning. Four of the six lots were rezoned to “RD” Duplex Residential and the two lots at the west end stayed at “RG” General Residential.

3. Kansas Wildlife and Parks contacted the office about installation of wind turbines at Milford Lake. Staff is in the process of determining exactly what guidelines will apply. KWP is claiming the proposed turbine will be non-commercial and are exempt from any County zoning because the operations are located on federally owned property. At this time staff has made no recommendation or given any response.

Mr. Yearout asked if anyone remembered discussions when the current regulations were recommended under consideration. Chairman Steinfert and Commissioner Gustafson recalled some discussion; but both recalled that the non-commercial turbines would be allowed and not be required to submit all the technical data/requirements of the larger commercial models.

Commissioner Ryan asked if the claim for exemption will stand. Mr. Yearout stated there is a court case that has determined that some state agencies are not exempt from local zoning regulations, but the determining factors are complex. This is further complicated by being located on federally owned land. Chairman Steinfert also commented that their claim to “no sale” on electricity is not accurate because the campgrounds supply electricity for campers. Mr. Yearout also indicated that Ft. Riley has concerns about the wind turbines.

4. Staff will be contacting Munson Angus Farms/Lead Horse Technology regarding the need to make application for a Special Use Permit in order to comply with the County Zoning Regulations for an office use in the “A” district. He stated the text amendment was approved by the Board of County Commissioners on August 23 and became effective on August 26, 2010.
5. Staff has written letters to several individuals concerning numerous zoning violations. Most are within the county and brought to our attention by either complaints or inspections. Most are old mobile homes being used for storage purposes or too old to be “remodeled”. Staff has had some success in seeing some old violation cases resolved by having the properties cleaned up.

6. ADJOURNMENT

There being no further business, Commissioner Ryan moved to adjourn at 7:45 p.m. Commissioner Gustafson seconded the motion and it carried unanimously.

PASSED AND APPROVED THIS _____ day of November, 2010.

Mike Steinfert, Chairman

ATTEST:

October 14, 2010
MPZ/BZA Minutes

David L. Yearout, AICP, Secretary