

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

**June 10, 2010
7:00 p.m.**

Members Present

Brandon Dibben
Maureen Gustafson
John Moyer
Mike Ryan
Rick Ziegler

Members Absent

Mike Steinfort
Ken Mortensen

Staff

David Yearout
Jill Iwen

1. CALL TO ORDER AND ROLL CALL

Vice-Chair Maureen Gustafson called the meeting to order at 7:00 p.m. and noted a quorum present.

2. APPROVAL OF MINUTES.

Upon a call for approval of the minutes it was noted the minutes of the May 13, 2010, meeting needed a correction on page 4 under the action on the Conditional Use Permit for the mineral extraction case by changing the date from June, 2010, to June, 2011.

Commissioner Moyer moved to approve the minutes of the April 8, 2010, and the May 13, 2010, meetings as corrected. Commissioner Ziegler seconded the motion and it passed unanimously.

3. OLD BUSINESS

Item No. 1 – Case No. FP-05-01-10 – Final Plat of Riffel Addition, a Replat of a portion of Green Hills West Unit No. 2 Addition.

Vice-Chair Gustafson opened the meeting for consideration of the request of Kaw Valley Engineering, agent, on behalf of Larry and Mary Jane Riffel, owners, for the replat of lots 59 and 60 of Green Hills West Unit No. 2 Addition.

Mr. Yearout reviewed the staff report for this case. He stated a letter had been received from the Green Hills Homes Association acknowledging its support for the replat. As such, staff is recommending the plat be approved.

Josh Junghans, Kaw Valley Engineering, the agent for the owners, confirmed the report from the Home Association.

Vice-Chair Gustafson opened the meeting for other comments or questions. No one spoke to this case.

Commissioner Ryan moved to approve the final plat of the Riffel Addition and authorize the Chair and Secretary to sign the plat. Commissioner Moyer seconded the motion and it carried unanimously.

4. NEW BUSINESS

Item No. 1 – Item No. 1 – Case No. VC-06-01-10 – Public Hearing on request to vacate a platted utility easement.

Vice-Chair Gustafson called the public hearing to order on the request of Ian A. & Kimberly R. Mann to vacate the platted utility easements located between lots 59 & 60 and lots 60 & 61, Moske’s Addition to Cedar Estates, Geary County, Kansas.

Mr. Mann addressed the Board and reported he had changed the location of the accessory building from further north of the home on Lot 61 to a location off the existing driveway. As a result, it was discovered the location placed the building on the lot line between Lots 60 and 61. Mr. Mann indicated he had called One-Call for utility locations prior to actual construction and there were no utility lines in this area. The building permit for the construction had been approved; contingent upon the vacation and, due to timing issues with the manufacturer, the building was erected even though the vacation had not been finalized.

Mr. Yearout reviewed the staff report and noted the building already existed; but confirmed that discussions had been held with the applicant regarding the situation. Mr. Yearout reported staff had received confirmation from D, S & O Electric and Twin Valley Telephone that neither had existing lines in the easement and that neither had a future need for the easement. Mr. Yearout stated that utility easements were placed on every side lot line on every lot in this subdivision, which is “over-kill” anyway. Staff is recommending the vacation be approved.

Vice-Chair Gustafson opened the public hearing for comments from the audience. No one spoke. Vice-Chair Gustafson closed the public hearing.

Commissioner Moyer moved to recommend to the Geary County Board of County Commissioners that the vacation request of Ian A. & Kimberly R. Mann for the vacation of the platted utility easements between Lots 59 and 60 and between Lots 60 and 61 be approved. Commissioner Ryan seconded the motion and it carried unanimously.

Item No. 2 – Case No. Z-06-01-10 – Public Hearing on request to rezone property at 220, 226 & 230 E. Chestnut Street, Junction City, Kansas, from “RM” Multiple Family Residential to “CSR” Service Commercial Restricted.

Vice-Chair Gustafson called the public hearing to order on the request of Auto Craft, Inc., purchaser and agent, and Arvid Luthi, owner, to rezone property at 220, 226 & 230 East Chestnut Street from “RM” Multiple Family Residential to “CSR” Service Commercial Restricted.

Mr. Yearout reviewed the staff report and indicated the rezoning request would make this property match the zoning classification on the south side of Chestnut Street presently occupied by the Dollar General store. Mr. Yearout noted the present zoning of "RM" Multiple-Family Residential is shown on all the zoning maps staff can find going back many years. The only assumption to explain the zoning classification is that prior to the reconstruction of Chestnut Street east of the railroad and the complete transformation of that area into a commercial center, Chestnut Street was a two-lane, county road surrounded by farms. The existing zoning has not kept pace with the type of development occurring further east on Chestnut, nor the change in use expectations between the railroad and Washington Street. As such, staff supports the rezoning as being consistent with expected development patterns for that area.

Mr. Yearout stated the buyer intends to remove the two houses on the east side of the property and remodel and expand the existing commercial building on the west side of the lot. A site plan and rendering of the proposed improvements have been provided with the application. Mr. Yearout noted there is no requirement in the current regulations for site plans, but it is helpful in understanding how some redevelopment will occur. Mr. Yearout explained the only factor in this case is whether the change in zoning categories is appropriate and that any use permitted in the zoning classification is allowed by right if the rezoning is granted.

Mr. Yearout reported the contract buyer has submitted a written request to waive the paving requirement in the area for storage of vehicles. The applicant has been advised that only the City Commission can waive the paving requirement and that request will be forwarded to the City Commission with the rezoning.

Mr. Yearout noted that two written objections to the rezoning had been received by email. One came from Gary Junghans and the other from Clint Junghans. Copies of those objections were included in the packet of information received by the Commission.

Bill Johnson, Evans Building of Wichita, spoke on behalf of the contract buyer. He indicated his company would be doing the work on the property to convert the existing commercial building into the facility for the buyer. He provided photographs of the existing facilities in Wichita and indicated the facility being constructed in Junction City would be equal to the Wichita facilities. Mr. Johnson also noted all requirements of the City would be met in the redevelopment of this property.

Vice-Chair Gustafson opened the public hearing to comments from the audience. No one spoke. Vice-Chair Gustafson closed the public hearing.

Several Planning Commissioners raised questions as to the list of uses permitted in this zoning classification and Mr. Yearout highlighted many of them.

Commissioner Ziegler moved that the request of Auto Craft, Inc., purchaser and agent, and Arvid Luthi, owner, to rezone property at 220, 226 & 230 East Chestnut Street from "RM" Multiple Family Residential to "CSR" Service Commercial Restricted be recommended for approval based on the findings in the staff report and on testimony heard at the public hearing. Commissioner Moyer seconded the motion and it passed unanimously.

Item No. 3 – Discussion on text amendment to the Subdivision Regulations concerning exemptions from platting and issuance of certain types of building permits.

Vice-Chair opened the meeting for discussion of the proposed text amendment to the Junction City Subdivision Regulations.

Mr. Yearout stated a recent building permit application for the addition of a carport to property on McFarland Road is what prompted this issue. Under current City Code, no building permit may be issued on any property within the City of Junction City unless the property is platted. A number of the homes along McFarland Road, and in some other parts of the City that have recently been annexed, were never platted even though there are homes on the properties.

Staff is recommending a text amendment to the Junction City Subdivision Regulations that would exempt certain lots from having to be platted, but only under certain conditions. The proposed language for the Subdivision Regulations adding a new exemption from the platting requirement for improvements to certain unplatted properties within the City of Junction City is within the staff report on this issue. Staff is requesting a motion from the Metropolitan Planning Commission to set the public hearing for the July meeting in order to consider this amendment.

Following some general procedural questions, Commissioner Ziegler moved to set a public hearing at the July, 2010, Metropolitan Planning Commission meeting to consider a text amendment to the Junction City Subdivision Regulations concerning exemption from platting of certain properties. Commissioner Ryan seconded the motion and it passed unanimously.

RECESS AS METROPOLITAN PLANNING COMMISSION

Vice-Chair Gustafson declared a recess as the Metropolitan Planning Commission and reconvene as the Board of Zoning Appeals.

CONVENE AS BOARD OF ZONING APPEALS

1. OLD BUSINESS

None.

2. NEW BUSINESS

Item No. 1 – Case No. BZACU-06-01-10 – Public Hearing on request for a Conditional Use Permit to allow the operation of a self-storage facility at 2721 Gateway Court, Junction City, Kansas.

Vice-Chair Gustafson call the public hearing to order on the application of Triangle Self Storage, owner, requesting a Conditional Use Permit to operate a self-storage facility at 2721 Gateway Court, Junction City, Kansas.

Mr. Yearout reviewed the staff report and noted the land already was zoned "CG" General Commercial, which is the only zoning classification that permits mini-storage facilities through a Conditional Use Permit. Mr. Yearout noted staff's conclusion is this area was anticipated for mini-storage use from the beginning of the development.

Mr. Yearout stated staff supports the proposed used as a mini-storage facility; however, comments received from Kansas Gas Service indicate they will not permit any development activity within the confines of the 100-foot utility easement on the property. This included any gravel or paved area for traffic use only and most definitely included any buildings. Given this situation, staff is recommending the case be continued and the site plan showing the manner in which the site will be developed be revised to take into account the restrictions from Kansas Gas Service.

Charles Woodard, representative from Triangle Self Storage, stated he was unaware of the restriction from Kansas Gas Service. If that is the position of Kansas Gas Service, the intent of placing vehicles such as trailers and boats, or portable storage units in that area will not be possible. Mr. Woodard asked for approval of the balance of the plan and the use of the easement area would be brought back to the Board for approval.

Thomas Silovsky indicated he was the person that had developed the property and he had never been advised by Kansas Gas Service of that type of a restriction on the property. Mr. Silovsky stated he was at the site visit with representatives of Kansas Gas Service when B and B Busing was told they could park within the easement, but acknowledged he was only at the property and did not participate in the discussion. Mr. Silovsky asked for approval of the balance of the project and that once a solution had been worked out with Kansas Gas Service the issue would be brought back to the Board.

Michael Kelly stated he was the architect for this project and his site plan showed uses in this area consistent with his past experience with similar issues in Colorado. He stated the restrictive nature of the position taken by Kansas Gas Service rendered most of the property unusable. He asked for approval of the balance of the project.

Vice-Chair Gustafson asked for other comments from the audience. There was none. Vice-Chair Gustafson closed the public hearing and asked for direction or a decision by the Board. Several members raised questions concerning the site plan and the impact of the layout with respect to the location of the Kansas Gas Service easement. Indications from the applicant were that none of the proposed buildings encroached into the easement but were very close. The intent was to have the easement line identified on the site before any buildings were started.

The Board of Zoning Appeals members indicated they wanted the matter resolved before any final action was taken as there had been experiences in the past where issues were to be returned to the Board before construction occurred, but that did not always happen. Given that, Commissioner Ryan moved to continue Case No. BZACU-06-01-10, the request by Triangle Self Storage for a Conditional Use Permit to allow the operation of a self-storage facility at 2721 Gateway Court, Junction City, Kansas, until the July meeting in order for the site plan to be revised or the use of a portion of the easement be approved by Kansas Gas Service. Commissioner Ziegler seconded the motion and it carried unanimously.

Item No. 2 – 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, Kansas.

Vice-Chair Gustafson called the 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 reported that this may be the first in a number of similar requests for day care operations within the City and County because of changes made Kansas laws by the last legislative session. In short, the State of Kansas is eliminating the “registered family day care home” classification from its permitted categories and requiring that all day care operations be licensed. By definition, the “registered” day cares were limited to no more than six children and that classification was permitted by right by the City and County Zoning Regulations. The “licensed” day cares allow up to ten children and the City and County Zoning Regulations will require those facilities to obtain zoning approval by a Conditional Use Permit. Since all those that exist within the City and County will be reclassified upon the annual renewal, the potential is present for almost all of the facilities with the City and County to need a zoning approval before the renewals. Mr. Yearout noted this request by Mrs. Taggart is just the beginning unless other changes can be made.

Mr. Yearout reviewed the position in the staff report and noted staff is recommending denial for the same reasons given in the last case requesting zoning approval to allow up to ten children. Mr. Yearout stated he was aware Mrs. Taggart has no intention of taking that many children but there is no way under the current language to restrict the number of children given the authorization of the license from the Kansas Department of Health and Environment. Mr. Yearout noted staff is requesting this case be continued to allow time to research potential modifications to the newly-adopted amendments to the Zoning Regulations and City Code to minimize the number of zoning cases.

Mrs. Taggart addressed the Board and said she was simply trying to stay ahead of the changes in the State laws and become a licensed day care. She stated she is presently a registered day care and keeps only infants, which are restricted by law to no more than three. She has no intention of changing that practice, but understands the problem the City is addressing. She stated a continuance will not have any impact on her operations because she is not schedule for renewal until next spring.

Mr. Yearout noted he hoped to obtain clarification from legal counsel that the City and County could establish a category within its rules and regulations that would maintain a limit of six children so that no zoning action would be necessary. This would be under the “home rule” provisions of State law, but legal advice must be provided to determine if that is possible.

Commissioner Ziegler moved to continue Case No. BZACU 06-02-10, the request of Renee A. Taggart for a Conditional Use Permit to allow a Day Care Home at 109 Arapahoe Court, Junction City, Kansas, until the July, 2010, meeting in order for staff to research possible amendments to the rules and regulations to resolve the issue. Commissioner Moyer seconded the motion and it carried unanimously.

Item No. 3 – Case No. BZAV 06-01-10 – Public Hearing on request for a Variance to increase the allowable percentage of lot coverage.

Vice-Chair Gustafson called the public hearing to order to consider the application of Dennis Wetklow, owner, for a Variance to increase the allowable percentage of lot coverage for a proposed building at 216 E 7th Street, Junction City, Kansas.

Mr. Yearout reviewed the staff report and noted this property had been rezoned the previous winter for the purpose of allowing the construction of a building to house Mr. Wetklow's business, which is a lawn maintenance service business. Mr. Yearout noted the old zoning, Central Commercial Service, permitted 100% lot coverage and, had that zoning classification allowed the type of business Mr. Wetklow operates, there could be a building constructed that covers the entire lot. However, the present zoning of General Commercial has a 50% maximum lot coverage provision, which can be modified by the Board of Zoning Appeals approval of a variance.

Mr. Yearout indicated the applicant wishes to construct a building that is 40-feet by 100-feet on the lot, which is 46 feet wide and 140 feet in depth. There are no setbacks on the side lot lines required; however the lot coverage provisions do not allow a building of this size. Mr. Yearout stated the staff report provides the rationale for a recommendation of approval.

Mr. Wetklow indicated his building plans were for the building as noted by staff. He can meet the lot coverage restriction by reducing the length of the building to 80 feet, but the additional 20 feet of building length allows more flexibility for the business and, in his opinion, has no more impact on the area. He requested approval of the variance.

Laura Penland, 220 East 7th, stated she owned the home immediately to the east of Mr. Wetklow's property and she had drainage concerns for this building. Ms. Penland presented photographs of her property and showed how Mr. Wetklow's property was higher than her lot and water flowed from that property onto her. She stated during heavy rains it was possible for water to pond on her property. She stated she did not object to the building because she understood she was in an area zoned for commercial development, but she was concerned with the drainage as additional development occurred.

Mr. Yearout noted that detailed plans would have to be prepared and submitted with the building permit application before any construction occurred. Mr. Yearout stated that the review of the plans included detailed discussions on drainage impacts and that the City was committed to requiring new developments not increase any drainage onto neighboring properties. The concerns expressed will be addressed during the building permit approval process and that Ms. Penland can request to be notified by the City at the time the building permit application is made by notifying the Code Enforcement Office of that interest.

Vice-Chair Gustafson asked for any other comments from the public. Hearing none, Vice-Chair Gustafson closed the public hearing and asked for comments or a decision from the Board.

Commissioner Moyer moved to approve the request of Dennis Wetklow, owner, for a Variance to increase the allowable percentage of lot coverage for a proposed 40-foot by 100-foot building at 216 E 7th Street, Junction City, Kansas. Commissioner Ryan seconded the motion and it carried unanimously.

ADJOURN AS BOARD OF ZONING APPEALS

Vice-Chair Gustafson declared the Board of Zoning Appeals adjourned and reconvene as the Metropolitan Planning Commission.

RECONVENE AS METROPOLITAN PLANNING COMMISSION

5. GENERAL DISCUSSION

Mr. Yearout reminded the Metropolitan Planning Commission of the Work Session on the update to the Geary County Zoning and Subdivision Regulations next week. Copies of the draft documents will be delivered early next week.

6. ADJOURNMENT

Commissioner Ziegler moved to adjourn at 8:35 p.m. Commissioner Moyer seconded the motion and it carried unanimously.

PASSED AND APPROVED THIS _____ DAY OF _____, 2010.

Mike Steinfert, Chairman

ATTEST:

David L. Yearout, AICP, Secretary