

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

**April 08, 2010
7:00 p.m.**

Members Present

Brandon Dibben
Maureen Gustafson
Ken Mortensen
John Moyer
Mike Steinfort

Members Absent

Rick Ziegler
Mike Ryan

Staff

David Yearout
Jill Iwen

1. CALL TO ORDER AND ROLL CALL

Chairman Mike Steinfort called the meeting to order at 7:03 p.m. and noted a quorum present.

2. APPROVAL OF MINUTES.

Chairman Steinfort asked for consideration of the minutes of the February 11, 2010, and March 11, 2010. Commissioner Mortensen moved to approve the minutes of both the February 11, 2010, and the March 11, 2010, meetings as written. Commissioner Moyer seconded the motion and it passed unanimously.

3. OLD BUSINESS

Item No. 1 – Continued Public Hearing on Case TA-01-03-10 – Public Hearing on the proposed text amendment to the City Zoning Regulations regarding the establishment of an Overlay District for the “RDO” Residential Duplex zoning.

Chairman Steinfort opened the continued public hearing on the proposed text amendments to the City of Junction City Zoning Regulations creating the “RDO” Residential Duplex Overlay District.

Mr. Yearout reviewed the considerations taken to date on this matter, including the noting the revisions to the original draft that currently does not apply the overlay district to any property, establishes a minimum number of adjacent lots that must be included in the proposed overlay area, modified the setback language to more accurately reflect conditions that might exist where alleys are not present, clarify that replatting will be required to create lots capable of supporting development in the overlay district, and strengthened the language regarding the aesthetics of the proposed buildings in order to minimize potential conflicts with other development in the area. Mr. Yearout noted the staff is still supporting the adoption of the text amendment as a means to enhance the flexibility of development potential in the existing platted areas of the City. Further, this amendment would allow the type of development that would help in reducing “special

assessments” on some of the lots by allowing them to be reduced in size; thereby reducing the proportionate share of the assessments.

Chairman Steinfert called for comments from the public. No one was present to speak to this issue. Chairman Steinfert closed the hearing and called for discussion or a motion from the Commission.

Commissioner Mortensen indicated he was still opposed to the proposed amendment because of the impact it potentially would have on areas that are developing as single-family developments. He stated he understood that the present “RD” Duplex Residential zoning on some of these areas left the potential open for duplex development in an area where single-family construction has been the norm; but the use of the overlay district would have a more potential harmful impact and could lead the less interest in seeing the open lots developed, except in this manner. He further stated that the “PDD” Planned Development District could be used to create these types of developments.

Commissioner Gustafson commented she concurred with the reasoning stated by Commissioner Mortensen. She stated she was more interested in beginning the process to protect the areas developing as single-family from intrusion of higher-density construction. She acknowledged that would require some areas to be rezoned to single-family; but that action may be necessary in the near future to protect the investment in those properties.

Other Commission members echoed the comments provided by Commissioners Mortenson and Gustafson.

Commissioner Gustafson moved to recommend the denial of the proposed text amendment creating the “RDO” Residential Duplex Overlay District as presented for the reasons stated at the meeting. Commissioner Mortensen seconded the motion and it passed unanimously.

4. NEW BUSINESS

Item No. 1 – Case No. TA-03-01-10 – Public Hearing on the proposed text amendment to the Geary County Zoning Regulations regarding BZA approval of second home on rural property under hardship conditions.

Chairman Steinfert called the public hearing to order on the proposed text amendment to the Geary County Zoning Regulations to establish a process and standards for the Board of Zoning Appeals to allow a Conditional Use Permit as an exception for the placement of a manufactured home on a rural lot as a second home under hardship conditions.

Mr. Yearout indicated this matter was published for consideration at the March meeting but had inadvertently been omitted from the agenda. As such, its consideration was automatically continued to this meeting.

Mr. Yearout said the proposal is to allow the Board of Zoning Appeals to consider a Conditional Use Permit as an exception to allow the placement of a manufactured home on rural property as a second home under certain hardship conditions. Mr. Yearout said

his experience over the years has shown this is often an acceptable situation for many rural residents wherein a family member, most often an elderly parent, needs housing on a temporary basis until a different living arrangement becomes necessary. Mr. Yearout said his experience with this process has been positive and the “elderly parent” condition is the reason behind the request in about 90% of the cases. The proposed language states the CUP is valid for no more than three years, but can be renewed if necessary. However that is a very rare condition.

Chairman Steinfert opened the hearing for comments from the public.

Kirk Crabtree, Ogden, asked whether the definition of “manufactured home” was in the regulations. Mr. Yearout noted the Manufactured Home Code for Geary County provided the definition that would be used.

There being no further questions or comments, Chairman Steinfert closed the public hearing and called for discussion or a motion.

Several Commission members noted this matter had been discussed at length prior to setting the public hearing. It was noted the language in the proposed text amendment had been modified to address the concerns that had been raised.

Commissioner Mortensen moved to recommend approval of the proposed text amendment to the Geary County Zoning Regulations establishing a process and standards for the Board of Zoning Appeals to allow a Conditional Use Permit as an exception for the placement of a manufactured home on a rural lot as a second home under hardship conditions. Commissioner Dibben seconded the motion and it passed unanimously.

Item No. 2 –

Case No. FP-04-01-10 – Final Plat of Replat # 2 of Caroline’s Addition.

Chairman Steinfert called the case on the request of John York, agent, on behalf of Kevin and Lafarris Risby, owners, for the replat of Lot 2, Block 1 of Caroline Addition. This property is located on the east side of Caroline and south of St. Marys Road.

Mr. Yearout noted the proposed replat is being called the Risby-Burk Addition, which is a change from the past practice of renaming each replat by the same name, with lot and block designations, as was already exists. Staff believes this causes problems with subsequent legal descriptions because of the confusion of what is a replat and what is the original plat. The name change included in the case resolves that problem.

Mr. Yearout reviewed the staff report and the background information on this property, including past zoning actions and plat approvals. Mr. Yearout noted the applicant proposes to provide sewer service from the line on St. Marys Street. Staff investigations show the depth of the St. Marys sewer line is in excess of 17 feet, which will allow the newly created lots to gravity a sewer line to St. Marys. Water service will be from the line located in Caroline Avenue.

John York, agent for the applicant, confirmed the overview provided by staff and said he was available to answer any questions.

Chairman Steinfert asked for questions or a motion from the Commission.

Commissioner Gustafson moved to approve the replat of a portion of Caroline's Addition, to be known as Risby-Burk Addition, and authorize the Chairman to sign the plat and submit the same to the governing body for final approval. Commissioner Moyer seconded the motion and it carried unanimously.

RECESS AS METROPOLITAN PLANNING COMMISSION

Commissioner Gustafson moved to recess as the Metropolitan Planning Commission and reconvene as the Board of Zoning Appeals. Commissioner Mortensen seconded the motion and it passed unanimously.

CONVENE AS BOARD OF ZONING APPEALS

1. OLD BUSINESS

None.

2. NEW BUSINESS

Item No. 1 – Case No. BZACU-04-01-10 – Request for a Conditional Use Permit to allow placement of a manufactured home as a second home at 10402 Junction Road, Junction City, Kansas.

Chairman Steinfert call the public hearing to order on the application of Ralph E. Millard, owner, requesting a Conditional Use Permit to place a manufactured home as a second dwelling on an existing home site due to a hardship situation at 10402 Junction Road, Junction City, Kansas.

Commissioner Gustafson noted a conflict with this case and that she would be abstaining.

Mr. Yearout noted this case was scheduled with the idea the text amendment would be completed by the April meeting. However, since the text amendment was not heard until this meeting, any action taken would be contingent upon the Board of County Commissioners approving the text amendment. In fact, it was the inquiry from this applicant that was the basis of presenting the idea of the text amendment in the first place.

Mr. Yearout further noted that the ability to take action on this request was contingent upon the text amendment acted upon earlier in the meeting being approved by the Board of County Commissioners. Approval of this request, if granted, would not be effective unless the County Zoning Regulations were amended.

Mr. Millard stated he planned to provide a home on his property for this parents that are moving from New Mexico. He reviewed the proposed location of the manufactured home in relation to the other structures on his property. He noted that he was still working on details of utility service with the providers. In response to a question concerning the requirements from the Rural Water District for that area he indicated the final details had not been worked out but that would continue to be pursued. He said he hoped to simply connect to the existing service line.

Chairman Steinfort called for comments from the public. None were given.

Chairman Steinfort closed the public hearing and called for comments or a motion from the Board.

Commissioner Mortensen to approve the Conditional Use Permit to authorize placement of a manufactured home as a second dwelling on an existing home site due to a hardship situation at 10402 Junction Road, Junction City, Kansas, contingent upon the Board of County Commissioners accepting the text amendment to the County Zoning Regulations. Commissioner Moyer seconded the motion and it passed 4-0-1, with Commissioner Gustafson abstaining.

Item No. 2 – Case No. BZACU-04-02-10 – Request for a Conditional Use Permit to allow a rock quarry on Boller Road, just north of I-70 and west of K-18.

Chairman Steinfort called the public hearing to order on the application of Greg Jueneman, agent, on behalf of Daniel Boller and Chad Blockcolsky, owners, requesting a Conditional Use approval to operate a rock quarry excavation site on Boller Road just north of I-70 and west of K-18, on a portion of Section 27, Township 11 South, Range 6 East, Geary County, Kansas.

Commissioner Dibben noted he would abstain due to a conflict of interest.

Mr. Yearout provided an overview of the request. He noted the operation was already in existence and had been for some time. The sole use of the material being excavated was the projects for bank stabilization on the Smokey Hill River, many of which have already been completed. Once staff was made aware of the activity, the operators of the excavation were contacted and informed a Conditional Use Permit was required under the Geary County Zoning Regulations. That resulted in the application before the Board.

Mr. Greg Jueneman, agent for the landowner and owner of the excavation company doing the work, stated he had no intention of bypassing the requirements of the County, but was advised by the State Conservation Commission, which regulates quarrying in Kansas, that this site is below the minimum area of quarrying that would require a permit from that office. He had made the assumption, obviously incorrectly, that no other permits or approvals would be necessary.

Mr. Jueneman stated the State Conservation Commission representatives referred to this site as a “borrow pit”, and as such would not be subject to permits. The site is being managed for drainage by establishing a “rock filter” around the perimeter and, once the rock material is extracted, the area will be backfilled, graded and reseeded. He stated he anticipates this project being completed by the end of this year.

Mr. Jueneman confirmed the rock is being used exclusively for the bank stabilization projects. He stated the contractor for the projects, which are being funded through the Natural Resource Conservation Service, has received confirmation the rock from this location is the only available in the area that meets the specifications of the Federal government.

David Walker, President of Crest Quarry Properties in Chapman and a Junction City resident, addressed the Board. He provided a listing of the numerous State and Federal agencies with whom permits and contacts must be maintained for each quarrying site. He stated that, in his opinion, there was no minimum area which was exempt and that the site was established illegally and it should be made legal.

Kelly Briggs, Byer Construction Company, addressed the Board and echoed Mr. Walker's comments. Mr. Briggs stated he was of the understanding from the Federal agencies that any site which produced "commerce" was subject to the licensing and permitting requirements. He also stated he only wanted to make sure all sites meet the local zoning requirements equally.

Mr. Jueneman reaffirmed the site was determined to be exempt by the State Conservation Commission because it covered only about ½ acre of extraction area of the total area being disturbed. Further, the entire project will be completed and all reclamation done by March of 2011.

Mr. Dan Boller, landowner, reported the stockpiling of dirt near K-18 is being done by KDOT contractors and that was state right-of-way. He stated he was supportive of the project and did not pursue the zoning approval because he also believed it was exempt.

Mr. Chad Blockcolsky, landowner, asked for confirmation of the responsible party for any problems that might arise from drainage or erosion issues. Mr. Yearout reported the lease agreement should address that between the landowner and the tenant, but if problems arose the landowner would be the one held accountable.

There being no further comments, Chairman Steinfort closed the public hearing and opened the case for questions or comments from the Board.

In response from questions from the Board, Mr. Yearout noted he had not had any direct contact with the State Conservation Commission on this issue. Mr. Yearout also noted a more detailed site plan was needed in order to more fully determine the extent of the operation.

Commissioner Gustafson moved to continue the case until the next meeting in order for staff to contact the State Conservation Commission and any other affected agency for clarification on the requirements of those agencies and for the applicant to provide a more detailed site plan as required by the County Zoning Regulations. Commissioner Mortensen seconded the motion and it passed 4-0-1, with Commissioner Dibben abstaining.

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 Gustafson seconded the motion and it carried unanimously.

RECONVENE AS METROPOLITAN PLANNING COMMISSION

5. GENERAL DISCUSSION

Mr. Yearout shared that Lisa Davies would be present at the MPC work session next Thursday to go over the Sanitation Code issues and present additional information for review.

Mr. Yearout also gave a brief overview of the Planning Commissioner Workshop that will be held on May 8th at Junction City. Handouts and registration forms will be brought to the April meeting for anyone interested in attending. This workshop will feature Dwight Merriam, a land use attorney from Connecticut that is recognized as one of the best in the nation.

6. ADJOURNMENT

Commissioner Gustafson moved to adjourn at 9:07 p.m. Commissioner Dibben seconded the motion and it carried unanimously.

PASSED AND APPROVED THIS _____ DAY OF _____, 2010.

Mike Steinfort, Chairman

ATTEST:

David L. Yearout, AICP, Secretary