

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

February 11, 2010

7:00 p.m.

Members Present

Brandon Dibben
Maureen Gustafson
Ken Mortensen
John Moyer
Rick Ziegler
Mike Steinfort

Members Absent

Mike Ryan

Staff

David Yearout
Jill Iwen

1. CALL TO ORDER AND ROLL CALL

Chairman Mike Steinfort called the meeting to order at 7:01 p.m. and noted a quorum present.

2. APPROVAL OF MINUTES.

Chairman Steinfort noted the minutes of the January 14, 2010 were just distributed at the meeting so, in order to have time to review the minutes, this item should be continued to the March meeting. Mr. Moyer moved to continue the consideration of approval of the minutes of the January meeting to the next meeting. Mr. Dibben seconded the motion and it passed unanimously.

3. OLD BUSINESS

Item No. 1 – Continued Public Hearing on Case VC-11-01-09 – Consideration of petition to vacate the platted drainage easement on property located in the 1-70 Industrial Park North.

Chairman Steinfort called the continued public hearing to order on the request of Tom Silovsky, agent, praying for the vacation of a drainage easement on Lot 1, Block A, a Replat of Lots 1, 2 and 3, Block A 1-70 Industrial Park North Addition to Junction City, Geary County, Kansas.

Mr. Yearout shared a letter from Kaw Valley Engineering concerning the storm water study completed on this entire area. The study indicates the 80' drainage easement on the property in the I-70 Industrial Park North was not required and could be vacated as requested. However the study did recommend a 15' easement on the west property line of Lot 1, Block 1 of the Replat of Champions Addition to manage the drainage from the storage units north of this property. Mr. Yearout concurred with the findings of the study.

Chairman Steinfort opened the public hearing for comments from the public. No one present spoke to this issue.

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

Commissioner Ziegler moved to recommend approval of the petition for vacation of the 80' drainage easement on Lot 1, Block A, a Replat of Lots 1, 2 and 3, Block A, I-70 Industrial Park North Addition to Junction City, Kansas, subject to granting of a 15' easement on the west property line of Lot 1, Block 1 of the Replat of Champions Addition. Commissioner Mortensen seconded the motion and it was carried unanimously.

Item No. 2 – Continued Public Hearing on Case TA-01-01-10 – Public Hearing on the proposed text amendment to the City Zoning Regulations regarding the requirements for approval of communication towers.

Chairman Steinfort called the continued public hearing to order to amend the City Zoning Regulations to require a Special Use Permit for the placement of new communication towers, including certain performance standards for the same.

Mr. Yearout stated that under the present City Zoning Regulations these uses are a permitted use in the "IR" Restricted Industrial and the "IL" Light Industrial Districts only. Further, the provisions of Section 400.310, Lot Size Requirements and Bulk Regulations for Public Utility Facilities, has apparently been interpreted to apply to a communications tower as well, which totally exempts the structures from all lot size and bulk regulations.

Mr. Yearout advised that staff has begun some work on new language, but has not had time to complete the language and have it reviewed by other affected departments within the City. More time is needed to complete that task and staff, therefore, requests this be continued to the March meeting.

Commissioner Mortensen moved to continue this case until the March, 2010, meeting. This motion was seconded by Commissioner Gustafson and was carried unanimously.

Item No. 3 – 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 "RD" Residential Duplex zoning and allowing certain development activities to occur.

Chairman Steinfort called the continued public hearing to order, on motion of the Metropolitan Planning Commission, to consider amending the City Zoning Regulations concerning the establishment of an Overlay District for the "RD" Residential Duplex zoned properties that allow flexibility in the design of certain developments and establishing procedures for such approvals.

Mr. Yearout shared that the proposed amendment was taken to the Housing Committee of the Economic Development Commission for review and comment at the January 20, 2010, meeting. No specific recommendations were received that day, but there was

considerable discussion regarding how to provide appropriate incentives and encouragement to people to build in the newly platted areas.

Mr. Yearout also stated the MPC had requested modifications to provide some assurance that this development, if approved, would have some consistence to it with respect to the appearance along the street frontage. Mr. Yearout advised that staff is prepared to modify the proposed amendment to clarify a minimum number of contiguous lots must be included in the development plan; which does not have to be owned by the same builder, but which does have to be submitted for approval under the process outlined in the proposal. However, staff believes that more time should be allowed for others to comment on the issue. Staff turnover at the Economic Development Department has altered the meeting schedules and, as such, more time is needed to receive additional input on the proposed amendment. Staff requests this be continued to the March meeting.

Commissioner Gustafson moved to continue this case until the March, 2010, meeting. This motion was seconded by Commissioner Moyer and was carried unanimously.

4. NEW BUSINESS

None.

RECESS AS METROPOLITAN PLANNING COMMISSION

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

CONVENE AS BOARD OF ZONING APPEALS

1. OLD BUSINESS

Item No. 1- Case No. BZACU-10-01-09-Request for Conditional Use Permit to allow a Day Care Home at 2420 Deer Trail.

Chairman Steinfort called the continued public hearing to order on the request of Nicole Buckwalter, owner, for a Conditional Use Permit to allow the operation of a Licensed Day Care Home for not more than 10 children at her home at 2420 Deer Trail, Junction City, Kansas.

Mr. Yearout stated this case was being requested for a continuance by the applicant.

Commissioner Mortensen moved to continue this case until the March, 2010, meeting. This motion was seconded by Commissioner Zeigler and it carried unanimously.

2. NEW BUSINESS

Item No. 1 – Case No. BZACU-02-01-10 – Request for a Conditional Use Permit to allow a Portable Toilet Business to operate at 1725 Walker Road, Milford, Kansas, as filed by Johnson’s Portable Toilet Service.

Chairman Steinfert called the public hearing to order on the request of General Johnson, agent and owner of Johnson's Portable Toilet Service, on behalf of Harvey Deatherage, property owner, for a Conditional Use Permit to allow the operation of a portable toilet business at 1725 Walker Road, Milford, Kansas.

Mr. Yearout stated in 2008 the Board of County Commissioners passed an amendment to the Geary County Zoning Regulations establishing requirements associated with a Conditional Use Permit for a Portable Toilet Storage and Rental facility in the Agricultural District. While the amendment was approved it still required an application and subsequent approval for the operation to be in compliance with the Zoning Regulations. That action was not taken following the amendment to the regulations and it was just recently that staff had notified Mr. Johnson concerning the need for this action.

Mr. Yearout stated a site visit was made last fall that resulted in correspondence with Mr. Johnson concerning several issues that still needed to be resolved. Those issues, along with the stated requirements from the current Geary County Zoning Regulations, are included in the staff report. Staff is supporting approval of the Conditional Use Permit for the operation, but with a number of conditions and requirements. Those are supplemented by the correspondence from the Health Department and the BZA should reconcile all recommendations into the final Conditional Use Permit.

Lisa Davies, Geary County Health Department, explained the Health Department's assessment of the portable toilet site. She reviewed the suggested conditions submitted by the Health Department and stressed the desire to have the authority to maintain oversight of the operation. Other than the need to finalize the paving of the wash area, the only other need is for the water casing on the well to be replaced.

Commissioner Ziegler questioned as to whether there were any other health concerns from the operation. Ms. Davies stated that if the procedures were followed as directed there would be no need for concern. Commissioner Ziegler also was concerned with the chance of contamination to the stream or creek. Ms. Davies stated that there is an adequate berm in place to prevent runoff to the creek and further stated that the Johnson's have assured her additional cement berm will be installed along with a cement pad at the site by the well house where the portable toilets are cleaned.

Discussion was had as to the permit process and the need for an annual review. Commissioner Gustafson questioned whose responsibility the review process would fall under. Ms. Davies stated that it would be both the Health Department and Planning and Zoning. Mr. Yearout concurred.

Chairman Steinfert opened the public hearing for comments from the public.

Mike Ryan, 509 Court Street, Clay Center, attorney for Johnson's Portable Toilet Service presented the Board with a written response to the Staff Report dated Feb 3, 2010. The document addressed all of the Staff recommendations contained in the staff report and reiterated the Johnson's willingness to do whatever was need to obtain a Conditional Use Permit. He indicated the only item not yet finished was the concrete wash pad, which will be a 40' x 40' curbed basin near the well house.

Mr. Moyer voiced concerns over why this has taken so long, as it was brought to the board over two years ago. Mr. Moyer was quite concerned that this not 'fall through the cracks' again and the Johnson's and their attorney be held responsible for following through with the permit and annual review process.

Mr. Ryan accepted responsibility for the delay and gave the reason to be due to a lack of communication and poor record keeping. His assumption was that the Zoning Department would be contacting his office for the next step to be taken and when no contact was made to his office they basically dropped the ball.

Commissioner Moyer requested that if the Conditional Use Permit were to be issued that a timeframe be set for the conditions to be met, particularly in obtaining the permit and completing the required construction for the wash area.

Mr. Yearout suggested a design be presented to Lisa Davies at the Health Department within 30 days. Ms. Davies agreed this should be a sufficient timeframe.

Mike Watson, 7827 Old Highway 77 Milford, Kansas, stated he had concerns with the operation because he owns the land to the immediate south of the portable toilet facility. He stated that a creek that he uses runs through the Deatherage property, and that it has been littered with trash and rags that he believes belong to the Johnson's. He also addressed his frustration with the length of time the permit process has taken. Mr. Watson feels like the Johnson's have known for two years what concerns have needed to be addressed and that they have ignored the board. He asked that the board take notice of his concern and if the Conditional Use Permit is issued that there be means taken to track the progress and annual reviews.

Kate Watson, 7827 Old Highway 77, Milford, Kansas, reiterated that she has concerns with the cleaning process and would like to be assured that correct processes and procedures are being followed to ensure the safety of the water in the creek.

Angie Johnson, Johnson's Portable Toilets, 1725 Walker Road, Milford, Kansas, stated the willingness of the Johnson's to take care of any concerns of the board or the Watson's. She stated that the majority of the dumping and cleaning of the portable toilets is done on Ft. Riley with only a final rinse being done on site, and that is mainly to rinse off road debris. Mrs. Johnson explained the cleaning process taken and the chemicals that are used. The portable toilets are re-stocked with deodorizers and lined up for re-deployment to a new site. She stated that they are very concerned with the environmental impacts of their business and will provide any documentation requested by the Board or Health Department to assure that they are following the correct procedures.

Commissioner Gustafson inquired if Mrs. Johnson was fully aware at this time of the conditions that needed to be met in order to obtain the permit, and the follow up inspections. Mrs. Johnson said yes, she is fully aware and agreed that the work will be done in a timely manner.

Harvey Deatherage, 1725 Walker Road, Milford, Kansas, stated he is the landowner of the property where the portable toilet facility is located. Mr. Deatherage displayed a large area map of his property and pointed out existing roads and streams. His main concern

was to make the Board aware of unwanted trespassers on his property that regularly dump trash on his land. He believes that this may be more of the reason for the Watson's concern than the portable toilet facility. Mr. Deatherage also stated that he planned to close access to a road on his property to try to deter the littering. He also stated that there are numerous animals that defecate in the creek and that with there being a beaver dam on the Watson's property, that in his opinion, the excrement caused by these animals would be a more potential health concern than the portable toilet facility

There being no further comments or questions, Chairman Steinfort closed the public hearing and called for further questions

Mr. Yearout stated that staff supports the granting of the Conditional Use Permit to operate a portable toilet storage business at 1725 Walker Road, subject to placing on file a detailed site plan showing the location and use of all areas under lease by the applicant, and subject to the following conditions outlined by staff and the Geary County Health Department:

1. The permit holder shall comply with all applicable governmental laws, rules and regulations as they may apply to the project and conduct business in an ecologically friendly manner.
2. Waste effluent shall be removed from holding tanks and transported to an approved waste treatment facility in a manner that precludes leakage, spillage or creation of a sanitary nuisance.
3. Cleaning and storage of portable toilets, transport trailers and pump trucks shall be in an area screened from public view in such a manner that precludes creation of a visual nuisance.
4. The cleaning area shall have a curbed, water tight hard surface to collect wash water and disposable cleaning material, which shall be disposed of as waste effluent at an approved waste treatment facility.
5. Use of an area by the permit holder for storage and cleaning of portable toilet shall not unreasonably interfere with other legally existing or permitted uses in the zoning district and adjacent properties.
6. The permit shall be reviewed annually by the Board of Zoning Appeals.
7. Solid waste management facilities shall be installed and used.
8. Monthly records disposal of the portable toilets at the wastewater treatment site at Ft. Riley (showing the dates and amounts) shall be provided to the Health Department.
9. Maintain all construction of berm to protect the unnamed creek from wash water.
10. Repair the well casing in the wash house to eliminate direct contamination route to source water.

11. Provide the Health Department with information on the drainage pipe under entrance road; particularly concerning what drainage is managed by this pipe.
12. Provide the Health Department with information concerning the number of wells on site; including all construction records (well log) on the wells and the purpose and use of each well.
13. Provide proper site maintenance to prevent washrags showing up in creek downstream of site.
14. The business owner shall place on file with the Junction City/Geary County Planning and Zoning Department and the Geary County Public Works Department the routes to be used during normal business activity to and from this site. This shall include routes to be used during normal business activity with Fort Riley, and routes to be used in bringing materials to or from the site not associated with Fort Riley.

Commissioner Mortensen moved that Case No. BZACU-02-01-10, the request of General Johnson, agent and owner of Johnson's Portable Toilet Service, on behalf of Harvey Deatherage, landowner, for a Conditional Use Permit to operate a portable toilet service business at 1725 Walker Road, Milford, Kansas, be granted subject to the conditions listed in the staff report, based on the findings outlined in the staff report and as presented at the public hearing; and further subject to the applicant obtaining a permit from the Health Department within 30 days for the concrete wash area and that construction of said wash area to be completed within 90 days after issuance of the permit, for a total of no more than 120 days to complete the construction. Commissioner Ziegler seconded the motion and it carried unanimously.

Item No. 2 – Case No. BZAV-02-01-10- Request for a variance in the off-street parking requirements for property at the northeast corner of 1st and Washington.

Chairman Steinfort and Vice-Chair Gustafson both abstained from the public hearing due to conflicts of interest.

Commissioner Moyer moved to appoint Ken Mortensen to serve as temporary Chairman. Commissioner Ziegler seconded the motion and it was carried unanimously.

Temporary-Chairman Mortensen called the public hearing to order on the request of Gery Schoenrock, owner of Schoenrock Investment's Inc., for a variance in the off-street parking requirements for commercial use on property at the northeast corner of 1st Street and Washington, Junction City, Kansas.

Mr. Yearout stated that this is the application of Gery Schoenrock on behalf of Schoenrock Investments, Inc., landowner, requesting a variance to reduce the number of off-street parking required for a proposed commercial building at the northeast corner of 1st Street and Washington. The off-street parking would be replaced and enhanced by providing parking within the public right-of-way similar to other parking provided on-street on Washington further to the north. A copy of the proposed layout of the improvements on the property, including the parking arrangements, is attached to the staff report. The

owner proposes to construct a commercial building containing over 8,200 square feet on the property. The design anticipates access from 1st Street, including an off-street loading space at the rear of the building. A total of 15 parking spaces are proposed on the lot to the rear, or east side of the property, with the remainder to be provided in the public right-of-way along the north side of 1st Street and on the east side of Washington.

Temporary-Chairman Mortensen opened the public hearing for comments from the public.

Gery Schoenrock, 404 N Adams, Junction City, Kansas, presented a rendering of the proposed retail building. He stated his main desire in this request was to create more green space around the new facility. Mr. Schoenrock reviewed the proposed design of the parking in the right-of-way and also provided photos of Geary County Rehab and the Geary County Office Building, where the same type of parking is currently being used.

Kathy York, 103 S Washington, Junction City, Kansas, stated that her property abuts the proposed retail location. Mrs. York asked if the proposed parking would be public or private parking. Mr. Yearout stated that the right-of-way parking would be public parking since it was in the public right-of-way.

Mrs. York also had a question as to the elevation of the proposed building and whether it would increase drainage onto her property. Mr. Yearout stated that the construction plans submitted at the time of the building permit will address the drainage issue and that under the regulations drainage is not allowed to increase onto adjacent properties.

Lastly, Mrs. York questioned the loading and unloading of large vehicles in the alleyway and whether there would be adequate room. Mr. Schoenrock stated that there was a large unloading area drawn into his plans that should accommodate unloading without any major impact on the local traffic. Mr. Yearout noted that the access from 1st Street is not to an alley, but to a private drive entrance into the lot and parking area being developed on the east side of the lots.

Dale Herschberger, Area Engineer for KDOT, Clay Center, Kansas, explained KDOT's position in reviewing the parking request on Washington since Washington is a State Highway. Under law, these types of amenities will need to be approved by KDOT prior to actual construction. Unlike the condition at 5th and Washington, which has been identified as the "model" for the proposed parking, some conditions are different. In particular is the fact the posted speed limit is higher at 1st and Washington as opposed to 5th and Washington. These are factors that will have to be evaluated by staff in Topeka prior to any approval of the angle parking proposed in this request. Mr. Herschberger stated that KDOT was not granting approval or denial at this time, just wishing to acknowledge that there will be an evaluation process that must be completed before actual construction can occur.

Mr. Yearout noted that the conditions listed in the staff report noted that the proposed parking arrangement on Washington Street was subject to approval by KDOT. The purpose of this hearing is to determine the appropriateness of granting the variance in the manner in which parking is provided. Because parallel parking is already permitted on Washington, fewer spaces would be provided if the angle parking is not approved, but the issue is whether to grant the variance.

There being no further comments or questions, Temporary-Chairman Mortensen closed the public hearing and called for further questions.

Commissioner Moyer inquired on how many parking spaces would be required. Mr. Yearout noted the regulations would require a maximum of 28 spaces based on the size of the building. If there is storage or warehousing within the building, it could be less. The actual number will not be known until the plans for the building are submitted. The proposed number of spaces shown on the site plan accompanying this application shows that more than 28 spaces are proposed.

Commissioner Moyer moved that Case No. BZAV-02-01-10, the request of Gery Schoenrock on behalf of Schoenrock Investments, Inc., landowner, for a variance to reduce the number of off-street parking required for a proposed commercial building at the northeast corner of 1st & Washington be granted, subject to the following conditions as outlined in the staff report:

1. The applicant shall prepare detailed plan and profile drawings showing the manner in which the parking and sidewalks shall be constructed within the public right-of-way, including the reconstruction of sidewalks at the intersection of 1st and Washington, and shall conform to the general requirements thereof as outlined for any street construction project as outlined in the Subdivision Regulations of the City of Junction City.
2. The 90-degree parking proposed on 1st Street shall provide parking spaces a minimum of 20 feet in depth and shall abut a sidewalk a minimum of 6 feet in width, which will allow the vertical curb to serve as the "block" for the parking stalls and a 2-foot overhang for the front of a vehicle, and still maintain a minimum of 4 feet of clear sidewalk.
3. In the event there is not sufficient room to meet the above specifications within the existing right-of-way, the applicant shall place a permanent sidewalk or pedestrian travel easement on the north side of 1st Street to assure the full width of the sidewalk is either within the right-of-way or within the right-of-way and easement.
4. All sidewalks, including the sidewalks at the intersection of 1st and Washington, shall be reconstructed at the time of construction in order to provide consistency of materials.
5. There shall be a ramp constructed in the sidewalk on the Washington Street frontage at the reserved area for the handicapped spaces. Said ramp shall conform to the standards for ADA. In addition, the sidewalks at 1st and Washington shall be fully ADA compliant.
6. All costs associated with the construction of the parking and sidewalks shall be borne exclusively by the property owner. The City shall not be responsible for any costs associated with this project.
7. All future maintenance of the parking spaces in the right-of-way and the sidewalks shall be the responsibility of the property owner. This shall include snow removal, surfacing repairs, and any other maintenance costs.

8. In the event the paving affects any underground utilities, the costs associated with maintenance, repairs or other work on such underground utilities incurred by reason of having to work through a paved area above and beyond a more normal action in an unpaved easement or right-of-way shall be the responsibility of the property owner. This shall include removal costs and replacement costs of such paving.
9. The Washington Street parking is subject to approval of the Kansas Department of Transportation.

Commissioner Dibben seconded the motion and it was carried unanimously.

Chairman Steinfort and Vice-Chair Gustafson returned to the Board, and Chairman Steinfort resumed the Chair.

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 Mortensen seconded the motion and it carried unanimously.

RECONVENE AS METROPOLITAN PLANNING COMMISSION

5. GENERAL DISCUSSION

Item No. 1 –Planning Study Report – Students from KSU

Cody Beard, the representative of the KSU Study Group, explained the scope of the downtown revitalization planning study their group is working on. Mr. Beard noted they are working with Sarah Talley at the Chamber of Commerce to put together a local focus group. The area of Junction City being studied is 6th Street to 10th Street and from Jefferson Street to Franklin Street. A mid-term presentation will be presented at the March MPC meeting with the final presentation at the May MPC meeting.

Item No. 2 – Temporary placement of Mobile Homes

Mr. Yearout stated that he had received inquiries concerning the ability to place a manufactured home on a lot in the rural areas as housing for an elderly parent on a temporary basis. Mr. Yearout indicated that, based on his experience throughout the state, this is very common and most counties had made accommodations within their regulations to allow for this situation. Normally, this would be by approval of the Board of Zoning Appeals as an exception, which is to allow a manufactured home as a second dwelling on a lot for a limited amount of time. Staff recommends that, if the MPC is agreeable to considering the potential amendment, a motion setting the public hearing be made.

Several MPC members noted there have been problems in the past with allowing manufactured homes to be placed for this type of purpose and then the homes never leave and are converted to rental units.

Mr. Yearout noted that issue is always going to be a problem, as is the case with any enforcement issue, but by being more formal in the approval process experience has shown that the removal of the units after the need is gone has not been a problem. This is no guarantee a problem would not arise in the future, but the proposed amendment is intended to provide a process for consideration of these needs on a case-by-case basis.

Commissioner Mortensen moved to set a public hearing for consideration of amending the Geary County Zoning Regulations to allow a process by which a manufactured home may be placed on a property as a second dwelling under hardship conditions. Commissioner Ziegler seconded the motion and it was carried unanimously.

6. ADJOURNMENT

Commissioner Gustafson moved to adjourn at 9:05 p.m. Commissioner Mortensen seconded the motion and it carried unanimously.

PASSED AND APPROVED THIS _____ DAY OF _____, 2010.

Mike Steinfort, Chairman

ATTEST:

David L. Yearout, AICP, Secretary