

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

January 14, 2010
7:00 p.m.

Members Present

Brandon Dibben
Maureen Gustafson
Ken Mortensen
John Moyer
Mike Ryan
Mike Steinfort

Members Absent

Rick Ziegler

Staff

David Yearout
Jill Iwen

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 the minutes of the November 19, 2009, and December 10, 2009 meeting were up for approval. Mr. Mortensen moved to approve the minutes of the November 19, 2009, and the December 10, 2009 meetings as presented. Mr. Ryan 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.

Chairman Steinfort called the continued public hearing to order on the request of Tom Silovsky, owner, 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 stated Kaw Valley Engineering had been retained to prepare a drainage analysis for this drainage basin, which extends north of I-70. That study is not completed and staff recommends this case be continued until the February, 2010.

Ms. Gustafson moved to continue this case until the February meeting. This motion was seconded by Mr. Moyer and it carried unanimously.

4. NEW BUSINESS

Item No. 1 – Public Hearing on Case Z-01-01-10 – Public Hearing on request of Metropolitan Planning Commission for clarification on development requirements under the “PDD” Planned Development District Final Development Plan for Olivia Farms.

Chairman Steinfort called the public hearing to order on this case and asked staff to provide the background on the issue.

Mr. Yearout stated this issue arose from a review of the revised Restrictive Covenants presented with the Olivia Farms 4th Addition plat, which dealt with the redesign of the development for the Lucy Court portion of Olivia Farms. Within that document was a statement that a number of the lots being developed for single-family townhomes on the narrow lots may not have garages. Staff had raised that point at the December, 2009, meeting, at which time the MPC had called for the public hearing to address that question and clarify the requirements for those lots.

Mr. Yearout further stated that staff had researched the previous approvals of the Final Development Plan and the minutes of the previous actions to approve the plats of Olivia Farms 3rd and Olivia Farms 5th to determine if there was any indication that garages might not be included in the development. That researched had clearly shown that everything presented supported the position that the garages were to be included on the lots for the single-family townhomes just like those already constructed south of Valentine Drive.

Mr. Yearout also stated that when the building permits were presented for the townhomes north of Valentine without garages, there was an extensive delay in approval of those permits because of this issue, even though the construction had begun prior to the issuance of the permits. Ultimately, those permits were amended to show storage buildings with paved parking spaces off the alley. This is the design that is being presented as an alternative to the garages. A copy of the individual site drawings on the lots under construction north of Valentine was included in the packet for this meeting.

Mr. Matthew Gough of Lawrence, an attorney representing Fort Development, addressed the Commission. He presented a copy of the marketing materials being developed for Olivia Farms showing a storage shed as an alternative for the single-family townhomes being constructed at this time. Mr. Gough stated the desire was to reduce the costs of the units to try to lower the purchase price, which would be more attractive to the buyers from Fort Riley. He also noted the comments in the letter included in the packet showing the overall approach being presented and the costs associated with the two alternatives.

Mr. Gough further stated the intention was to design and construct the storage buildings in a manner that would allow the garage to be built at a later time without having to remove and repour the concrete in the drive. The design calls for a “trench” that could be removed and constructed as the footing for the garage. This would allow most of the concrete to be retained.

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

Mr. Scott Johnson spoke regarding his belief that this is a poor development and that the City should not be granting anything to this developer until all his taxes are paid. Mr. Johnson reported that the taxes were delinquent for all of Olivia Farms and that all development should stop until the taxes are paid.

Mr. Johnson then shared his opinion regarding this particular project and the fact that he had voted against every item brought forward concerning this project. He stated he felt the project was not in the best interests to the City because it was small houses on small lots and rental developments. He stated he believed the only type of development that should be allowed are single-family homes on more traditional lots that are owner occupied.

Mr. Johnson stated he believed the City of Junction City had been taken by the out-of-town developers and the “deals” that were made had harmed other properties within the city by driving up the costs. He felt that nothing more should be done until all the money paid by the City was paid back; or at least all the taxes were kept current. He stated he felt the tax delinquencies were making the property taxes too high for the citizens of the City.

Mr. Gough responded by stating he had no control over the taxes issue and that all that is being requested is an ability to provide an alternative of development that would allow the homes to be more affordable, which would improve the condition of the City by having more residents paying the taxes.

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

All Planning Commissioners stated they voted for the expansion of these types of homes only because they understood the new construction would be just like the existing town homes, including the two-car garages. The proposal to remove the garages and install a storage shed would not have been supported at all. The Planning Commission members stated they felt the City had already gone to the limit of what was acceptable by the previous approvals and did not want to allow a development that would, in the opinion of the Planning Commission, do harm to the quality of the development and lead to a “blight” situation.

Commissioner Mortenson moved to not accept the proposed change the existing Planned Development District Final Development Plan and clarify the requirement that all single-family town homes must have garages for each unit just like those existing south of Valentine Drive. Commissioner Moyer seconded the motion and it carried unanimously.

Item No. 2 – Public Hearing on Case TA-01-01-10 – Public Hearing on the proposed text amendment to the County Zoning Regulations regarding requirements for contractor construction and storage yards, and proposed text amendments for both the City and County Zoning Regulations regarding the requirement for approval of communications towers.

Chairman Steinfert called the public hearing to order on the proposed text amendments to the Geary County Zoning Regulations regarding requirements for contractor construction and storage yards, and proposed text amendments for both the Junction City and Geary County Zoning Regulations regarding the requirement for approval of communication towers.

Mr. Yearout reviewed the staff report concerning these text amendments. Specifically, the text amendment for the contractor's construction and storage yard is a simple amendment to move the use from being a permitted use in the Industrial Districts to requiring a Special Use Permit in the Agricultural District. The Special Use Permit process was added for the "wind farm" amendments a few years ago and it calls for a public hearing by the MPC and final approval by the Board of County Commissioners.

Mr. Yearout reviewed the proposed language for the text amendment for the County Zoning Regulations for communication towers. He advised that these would also be a Special Use Permit, but that specific standards would be applied to address the issues that are most common in complaints about towers, namely the number that show up and the white strobe lights at night. Mr. Yearout stated the same general amendments would be proposed for the City Zoning Regulations, but that additional requirements should be added.

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

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

Several Planning Commission members stated they liked the idea that uses would be addressed in the rural areas in a Special Use manner rather than as a permitted use in a zoning district. This had been an issue discussed in the past.

Several members also stated the standards for the communication towers in the City would need to be more specific before they could recommend a specific amendment. Mr. Yearout stated staff would prepare the language and have the proposal for review at the next meeting.

Commissioner Gustafson moved to recommend approval of the text amendments to the Geary County Zoning Regulations to Geary County Commission on the contractor's construction and storage yard and the communication towers as presented; but to retain the issue of the text amendment to the City Zoning Regulations on the communication towers for further evaluation of proposed language. Commissioner Mortensen seconded the motion and it carried unanimously.

Item No. 3- Public Hearing on Case TA 01-02-10 - 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 petition for approval of the text amendments to both the City and County Zoning Regulations regarding the requirement for approval of day care operations.

Mr. Yearout reviewed the proposed language for the text amendments to both the City and County Zoning Regulations. In particular, the definitions are being updated to be consistent with current definitions used by the State of Kansas, the “family day care home” uses are being retained as permitted uses for single-family and duplex dwellings, but are being eliminated for multiple-family dwellings and in manufactured homes. Additionally, specific language is included to allow day care operations under the Army program to be treated the same as a “family day care home” even though they are required to be licensed for a different classification by the State of Kansas. These amendments are the final result of several weeks of discussions with representatives from City departments, County Health officials, representatives from Fort Riley, and some day care operators.

Mr. Yearout further stated a Day Care Inspection Code has also been developed and will be presented to both the City and County governing bodies for approval at the same time as the amendments to the Zoning Regulations.

Chairman Steinfert asked for other comments from the public. There being none, Chairman Steinfert closed the public hearing and called for further questions or a motion.

Several Commissioners stated they were pleased to have the regulations consistent between the City and County and were particularly pleased with the inspection process being adopted.

Commissioner Ryan moved to recommend the approval of the proposed text amendments to both the City and County Zoning Regulations concerning day care operations as presented. Commissioner Dibben seconded the motion and it was carried unanimously.

Item No. 4- 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 Steinfert called the public hearing to order on the proposed text amendment to the City Zoning Regulations concerning the establishment of an overlay district in the “RD” Duplex Residential District.

Mr. Yearout gave an overview of the substance of the proposal. This started with a request for a process to allow construction similar to the single-family town homes being constructed at Olivia Farms. This came from the owner of some lots in Sutter Highlands that is presently zoned for duplexes. The concern was that duplexes were not selling and were going to be primarily rental units; however, the small lots with “half a duplex” seem to be selling.

Mr. Yearout stated staff had prepared a preliminary draft of language that was in the packet for consideration as the “design” guidelines for the overlay district. He stated staff was supportive of creating a mechanism in the Regulations to allow this to occur without having to be done through the Planned Development District process.

Mr. Yearout said staff had asked for comments from Leon Osbourn of Kaw Valley Engineering and Brett Deam of Deam & Deam Architects and those comments were provided for review. The intent is to provide as much flexibility as possible for alternative designs without compromising the overall quality of development, and to encourage the development as quickly as the market will allow of the lots within the new subdivisions.

Chairman Steinfert asked for other comments from the public.

Scott Johnson spoke regarding his opposition to this amendment. He stated the City should be doing nothing to help the out-of-town developers in any of the subdivisions. He was opposed to any process that would create more small houses that will only become rentals anyway. He also wanted nothing done until the taxes were paid. He indicated he was strongly opposed to this amendment.

David Carreno, Wildwoods Development, spoke regarding this request. He indicated his company was the one that originated the request. He said he owned 9 lots in Sutter Highlands and that he has support to build the type of homes being envisioned by this amendment. He handed out preliminary drawings of the types of homes being proposed. He stated some of the requirements and standards in the draft language would not be necessary and may not work. But the concept is consistent with the ultimate intent to allow this type of development.

Mr. Leon Osbourn briefly discussed on his written comments the MPC received. He felt the idea had merit and should be evaluated further, but that some requirements could cause problems. It would take some time to more fully evaluate how this would work in the existing platted areas.

Mr. Yearout stated a review of the plat of Sutter Highlands showed that there were some other "technical" problems with the concept as drafted because of restrictions shown on the plat. In particular, some of the lots were too small to be split to allow this type of development and there were platted building setbacks that would need to be vacated for this to go forward within Sutter Highlands. This was especially true on the side yard setbacks shown on the plat.

There being no further comments from the public, Chairman Steinfert closed the public hearing and opened the item for discussion amongst the Commission.

Several Commissioners indicated they generally were supportive of the idea, but felt the current draft did not provide enough assurance that there would be an appropriate "grouping" of lots to create some continuity of appearance along a street. Without some minimum requirements it would be possible for a few lots to have this type of development and then the next few lots be occupied by single-family homes. This would potentially do more harm to the appearance and values of the properties.

Mr. Yearout stated the additional standards should be included to minimize this type of outcome. He suggested the Housing Committee of the Economic Development Commission also review this matter and see if they had other comments on the idea. The MPC members all agreed that would be a good thing to do.

There being no further comments, Commissioner Moyer moved to continue this case until the February meeting to allow time for the Housing Committee to review it and to have additional language prepared. Commissioner Ryan seconded the motion and it carried unanimously.

Item No. 5 – Case FP 01-01-10 – Final Plat of Goff Addition, located immediately south of Laurel Canyon Addition, Geary County, Kansas.

Chairman Steinfort called the hearing to order on the proposed Final Plat of the Goff Addition.

Mr. Yearout gave an overview of the substance of the proposal. This is located immediately south of Laurel Canyon Addition on the west side of Milford Lake. The property was originally owned by Mr. and Mrs. Jim Goff. The eastern portion of the property, including the existing house, was sold to Mr. and Mrs. Schaller, and the western portion was retained by Mr. Goff. There are local residents who are interested in purchasing the western portion of the land for future construction of a home.

Mr. Yearout stated the Geary County Zoning and Subdivision Regulations require the land to be platted in order for any future development to occur. Additionally, the land is located in the Water and Sewer Districts established by Geary County for this area and any future development will need to be connected to those systems. Mr. Yearout said a written letter was on file requesting the extension of the sewer system to the newly created lot to the west. The water line was already in place to provide service to this lot. The western lot with the existing house is already connected to the systems.

Mr. Yearout stated communication had been received from DSO Electric requesting the plat show an additional easement on the lot line between Lots 1 and 2. Depending upon how service is provided in the future, such easement may be needed.

Mr. Leon Osbourn, Kaw Valley Engineering and representative of the applicant, said the plat would be revised to show the easement. Mr. Osbourn also indicated that the staff had noted a couple of minor text changes and those would also be made on the final plat before it is presented to the Board of County Commissioners.

No one else had comments on the plat.

Commissioner Mortensen moved the final plat of the Goff Addition in rural Geary County be approved and the Chair be authorized to sign the plat, subject to the final drawing be corrected with the utility easement requested by DSO Electric and the text changes noted by staff. Commissioner Gustafson seconded the motion and it carried unanimously.

RECESS AS METROPOLITAN PLANNING COMMISSION

Commissioner Moyer moved to recess as the Metropolitan Planning Commission and reconvene as the Board of Zoning Appeals. Commissioner Gustafson 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 Steinfert 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. If the City Commission approves the amendments acted upon earlier, the case will be withdrawn because it would become moot.

Commissioner Ryan moved to continue this case until the February meeting. This motion was seconded by Commissioner Gustafson and it carried unanimously.

2. NEW BUSINESS

Item No. 1 – Case No. BZACU-01-01-10 – Request for a Conditional Use Permit to allow a Drinking Establishment and Restaurant and a Fitness Center on property at 1301 West 8th Street, the former Junction City County Club.

Chairman Steinfert called the public hearing to order on the request of Leon Osbourn, agent and member, JCCC, LLC for a Conditional Use Permit to allow the operation of a Drinking Establishment and Restaurant and Fitness Center on the property at 1301 W 8th Street, Junction City, Kansas.

Mr. Yearout stated JCCC, LLC, a group of former members of the Junction City Country Club had acquired the club and was in the process of preparing the facility to be reopened as a Golf Club and Fitness Center. An operations agent has been retained by the group and the new owners have been having significant remodeling of the clubhouse facility to allow a restaurant and fitness center opened in the space. That work is nearing completion, but to obtain all the appropriate licenses and permits a Conditional Use Permit is required.

The drinking establishment portion of the operation was “grandfathered” under the old County Club, but that designation was lost when the 18-month “grace” period expired last fall. Additionally, the Conditional Use would have been required for the fitness center. Hence, the application for the combined use.

Chairman Steinfert asked for other comments from the public.

Mr. Leon Osbourn spoke regarding the application and stated the staff report addressed the issue completely. The hope is to open the facility in the very near future. In fact, some marketing for memberships is already underway and they are having good success. The feeling is the fitness center and restaurant will be a positive addition to the city.

There being no further comments from the public, Chairman Steinfert closed the public hearing and opened the item for discussion amongst the Commission.

Commissioner Moyer moved to approve the Conditional Use Permit for Case No. BZACU-01-01-10, the request for a Conditional Use Permit by Leon Osbourn, member and agent for JCCC, LLC, owner, to allow a Drinking Establishment and Restaurant and a Fitness Center on property at 1301 West 8th Street, the former Junction City Country Club based on the evidence presented in the staff report and at this hearing. The motion was seconded by Commissioner Dibben and passed unanimously.

ADJOURN AS BOARD OF ZONING APPEALS

Commissioner Mortensen 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

Item No. 1 – Meeting schedule for update to Geary County Regulations

Mr. Yearout stated the first work session on the update to the Geary County Zoning and Subdivision Regulations and the Geary County Sanitation Code would be held next Thursday, January 21, at 7:00 p.m. in this room. Staff would be providing more information to review for that meeting, but a memo on that is included in the materials provided for this meeting. Staff also prepared a preliminary schedule which showed a completion target of this fall. This will be dependent upon reaching consensus on the major items as we go through the draft documents. There will be a lot of issues we will need to address before we reach the end of the project.

Chairman Steinfert stated he felt there should be a two-hour time limit set for the work sessions so that everyone could focus on the items for discussion and understand we will close the work sessions after a couple of hours. He stated they had failed to do that during the preparation of the Comprehensive Plan a few years ago and some of the meetings went very long. The MPC members all agreed that a two-hour time is appropriate.

Item No. 2 – Planning Study Review – Students from KSU

Mr. Yearout stated he had met with the students working on this project and that they were also in contact with Sarah Talley of the Chamber of Commerce. A detailed work program would be prepared and it is expected a brief report will be given at each

MPC meeting. Mr. Yearout noted the presence of Professor John Keller and 5 of the students. Those students present introduced themselves.

Professor Keller briefly discussed the general purpose of these projects from a student perspective. He stated the intent is to treat this as a real project, which it is, and that there are deadlines and requirements that must be met. He said there would not be a focus on recommendations, because that is not the mission of the project. But there would be value in the data gathered and the overall report presented. He reaffirmed there is no compensation to the students; however they would appreciate mileage reimbursements. Additionally, if the City wishes printed copies of the final report, that cost must be covered by the City. An electronic version of all reports, charts, maps and graphs prepared will be provided.

Chairman Steinfort and the MPC members all expressed appreciation to the students and Professor Keller and that they looked forward to the report on all the work completed.

Item No. 3 – Other Issues.

Mr. Yearout stated he had been contacted by a rural landowner inquiring about placement of a manufactured home on his property as a home for his elderly parents. The second home would not be there permanently, but was desired at this time until such time as his parents would need more advanced care. Mr. Yearout said there is no provision within the current County Zoning Regulations for this, but many other counties use a process through the Board of Zoning Appeals to allow this. He encouraged the MPC to call a public hearing to consider an amendment to allow this activity.

Several Commissioners stated they wanted to see the actual language on this before a public hearing would be set. While the idea has merit, some stated there had been problems in the past with allowing this condition and the manufactured home never leaves.

Mr. Yearout said this would be an agenda item for February and the proposed language would be presented at that time.

Mr. Yearout reported the Board of County Commissioners had approved the Manufactured Home Code, effective on December 31, 2009. Several Commissioners asked for a copy of the final document and Mr. Yearout stated a copy would be provided at the February meeting.

6. ADJOURNMENT

Commissioner Moyer moved to adjourn at 9:17 p.m. Commissioner Gustafson seconded the motion and it carried unanimously.

PASSED AND APPROVED THIS _____ DAY OF _____, 2010.

Mike Steinfort, Chairman

ATTEST:

David L. Yearout, AICP, Secretary