

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

**December 10, 2009
7:00 p.m.**

Members Present

Members Absent

Staff

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

David Yearout

1. CALL TO ORDER AND ROLL CALL

Chairman Mike Steinfort called the meeting to order at 7:04 p.m. and noted a quorum present. Commissioner Gustafson arrived at 7:08 p.m.

2. APPROVAL OF MINUTES.

Chairman Steinfort noted the minutes of the November 19, 2009, meeting were handed out for review at the meeting and would be considered for approval at the January, 2010, meeting.

3. OLD BUSINESS

Chairman Steinfort acknowledged from Mr. Yearout that these items would be moved to follow consideration of all items for public hearing. No motion was necessary.

4. NEW BUSINESS

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

Chairman Steinfort called the public hearing to order on the petition 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, I-70 Industrial Park North Addition to Junction City, Geary County, Kansas.

Mr. Yearout explained this was a request to vacate only the portion of the easement on the face of the plat related to the drainage. This is also an 80-foot utility easement and the utility easement portion would remain. Staff has visited the site and identified a surface drainage channel in the area between the ministorage complex and the car wash, but is not able to determine which side of the property line it is on.

Mr. Yearout stated he had discussed this issue with the agent, Kaw Valley Engineering, and was advised that no additional drainage analysis had been done to determine the need to drainage improvements in the future and whether any of this drainage easement would be needed. Kaw Valley had only processed the paperwork to start this process. Mr. Yearout stated staff felt more information was needed to clarify the extent of the drainage needs in this area before any easements were vacated.

Mr. Silovsky addressed the Commission and stated the surface drainage was on the car wash side of the property line and was within a drainage easement on that plat, which is the Champions Addition. Further, because of the number of plats that have been done for the I-70 Industrial Park North Addition, the width of the easement may not be correct in terms of what is actually needed. Mr. Silovsky stated the utilities in this area only use 20 feet of the easement.

Mr. Silovsky also stated that a drainage study was done when the Champions Addition was platted and that study would provide the information needed to address the drainage needs. He stated he would support a continuance to the January meeting in order to provide the information on the past studies.

Several Planning Commission members questioned the copy of the plat provided by staff, especially since the plat referenced the location in relation to US 77. Mr. Yearout noted the land in question was further west than may be understood by the plat because the Champions Addition, which is where the car wash is located, is between the I-70 Industrial Park North Addition and US 77.

The Planning Commission members involved in the past with the platting of this area stated there had been many concerns with the overall drainage in the area, especially off I-70 and how drainage flows crossed Old 40 Highway. The Planning Commission agreed that more information was needed before a recommendation could be made.

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

Commissioner Gustafson moved to continue this case to the January, 2010, meeting and have staff collect more information on the drainage issues and other plats in the area. Commissioner Moyer seconded the motion and it carried unanimously.

Item No. 2 – Public Hearing on Case VC-12-01-09 - Consideration of petition to vacate the platted utility easement on property located between 1320 Meadowbrooke Lane and 1326 Meadowbrooke Lane.

Chairman Steinfort called the public hearing to order on the joint petition of Christopher Adkins, owner, and Andrew King, owner, praying for the vacation of a 16-foot platted utility easement between Lot 4 and Lot 5, Block 15, Spring Valley Addition Unit No. 2 to Junction City, Geary County, Kansas and located between 1320 Meadowbrooke Lane and 1326 Meadowbrooke Lane.

Mr. Yearout stated this was initiated following a request for a fence permit to construct a fence between these two properties. It was discovered that a 16-foot utility easement was placed between these properties at the time of platting. It is speculated the easement was established for potential extension of utility services through the area. Other similar easements are shown on the same side of the street to the north and south. However, after full development, this particular easement is not needed by any utility provider. Therefore the landowners are requesting it be vacated.

No one was present to address this request from the public.

Several Planning Commission members asked for confirmation that no utilities needed the easement. Mr. Yearout stated written confirmation had been received from all the utility providers and none had a need for the easement. Mr. Yearout stated these often are provided for use to provide street lights, but the electric utility confirmed the street lights are in place and this easement is not needed.

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

Commissioner Mortensen moved to recommend approval of the request to vacate the 16-foot platted utility easement between Lot 4 and Lot 5, Block 15, Spring Valley Addition Unit No. 2 to Junction City, Geary County, Kansas and located between 1320 Meadowbrooke Lane and 1326 Meadowbrooke Lane. Commissioner Dibben seconded the motion and it carried unanimously.

Item No. 3- Public Hearing on Case Z-12-01-09 – Request of to rezone property at 739 W 7th Street, from “CSP” to “CS”.

Chairman Steinfert called the public hearing to order on the request of Benjamin Niedzwiecki, owner, to rezone property at 739 West 7th Street, from “CSP” Special Commercial District to “CS” Service Commercial District.

Mr. Yearout stated this request is to rezone the property at 739 West 7th in order to allow an auto repair business at this location. The current “CSP” Special Commercial District does not allow auto repair as a permitted use and the applicant desires to establish such a business at this location. There is an existing residence on the property occupied by the applicant and he recently constructed an accessory building on the southeast portion of the property and is using that building as the location for the auto repair business.

Mr. Yearout discussed the fact that all and south of 7th Street from Jefferson to Eisenhower is zoned “CSP” Special Commercial. This was apparently done several years ago because the Zoning District Map from the 1986 adoption of the current zoning regulations shows this area being zoned commercial. Mr. Yearout noted that, with the exception of some commercial development between Jefferson and Adams and the block covered by Dillon’s, there are only residences on the south side of 7th Street from Adams and Eisenhower. This means all the residences are nonconforming uses since the “CSP” zoning does not allow residential uses.

Mr. Yearout reviewed the staff report and noted that the staff is recommending denial of this request because of the additional commercial uses it would allow in the general 6th Street corridor. In particular, Mr. Yearout noted the requested zoning district of “CS” Service Commercial would the more intensive auto repair businesses, but also drinking establishments, which are not permitted under the current zoning of “CSP” Special Commercial.

Mr. Niedzwiecki stated he was requesting the zoning change because he is trying to keep his operation in conformance with the requirements of the City. He stated he did not fully operate a ‘business’, but did do work on vehicles at this location. He acknowledged he had dealt with the City on issues of blight because of the activity on the lot and wants to make his activity in compliance with the regulations.

A question from the Planning Commission was raised as to whether a Conditional Use or Special Use Permit could be done to allow this activity without having to rezone the property. Mr. Yearout stated the current regulations do not recognize that action as an option. It might be something to discuss in the future, but that is not available at this time.

Chairman Steinfort asked for other comments from the public. There being no further questions, Chairman Steinfort closed the public hearing and called for further questions or a motion.

Commissioner Ziegler moved to recommend denial of the request to rezone the property at 739 West 7th Street, from “CSP” Special Commercial District to “CS” Service Commercial District for the reasons stated in the staff report. Commissioner Mortensen seconded the motion and it pass 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 Dibben 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 Gustafson moved to continue this case until the January meeting. This motion was seconded by Commissioner Ziegler and it carried unanimously.

2. NEW BUSINESS

Item No. 1 – Case No. BZACU-12-01-09 – Request for a Conditional Use Permit to allow a Day Care Home at 323 West 9th Street.

Chairman Steinfort called the public hearing to order on the request of Erika Macaluso, owner, for a Conditional Use Permit to allow the operation of a Licensed Day Care Home for not more than 10 children at 323 West 9th Street, Junction City, Kansas.

Mr. Yearout stated Mrs. Macaluso had submitted the application in the beginning for the same reason as Mrs. Buckwalter, which is because of the requirement to be a licensed day care by the State of Kansas in order to operate under the day care program through the rules at Fort Riley. Mr. Yearout stated Mrs. Macaluso and her husband lived on post until recently, when they purchased the home at 323 West 9th Street. According to information provided by Mrs. Macaluso, the original intent was to continue with the military day care program. However, the desire now is to not do that, but Mrs. Macaluso was still wanting the licensed day care facility, which allows up to 10 children. Mr. Yearout stated that Mrs. Macaluso had been advised that if she changed her operation to a registered day care with the State of Kansas, she would not need to go through the zoning process. It was the decision of the applicant to proceed with the licensed operation.

Mr. Yearout reviewed the staff report and noted the staff is recommending denial because of the increased intensity of the operation allowed by the larger day care operation. Staff does not believe this is compatible with the neighborhood and would be further impacted once the former middle school across the street is reopened as the Freshman Academy in the next school year.

Mr. Yearout also noted a letter received that is jointly signed by both landowners on either side of Mrs. Macaluso's property. The letter indicates both landowners are in opposition of the licensed day care operation. It acknowledges the registered day care could operate without zoning approval, which is still not desired but acceptable. However, the landowners are opposed to the more intensive operation.

Mrs. Macaluso addressed the Board of Zoning Appeals and stated she did not wish to go forward with this application and requested by it be formally withdrawn.

Commissioner Gustafson moved to acknowledge this application has been withdrawn and no further action would be necessary. Commissioner Ziegler seconded the motion and it carried unanimously.

ADJOURN AS BOARD OF ZONING APPEALS

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

RECONVENE AS METROPOLITAN PLANNING COMMISSION

5. GENERAL DISCUSSION

Chairman Steinfort opened discussion on the items tabled under Old Business.

Item No. 1 – Draft proposal for Manufactured Home Code for Geary County

Mr. Yearout stated the Manufactured Home Code was being reviewed by the County Attorney and the Building Inspectors. It was anticipated the Code would be presented to the Board of County Commissioners for consideration before the end of the year. The Code still refers to the 1994 date, but indications are that is the acceptable date from the County Attorney. A status report will be given at the next meeting, but it is hoped the Code will be adopted by the end of the year.

Item No. 2 – Discussion on Zoning Regulation requirements for Day Care operations.

Mr. Yearout reviewed the staff report, which provides an overview of the sections of the Zoning Regulations for both the City and the County that need to be modified. In particular, the definitions are out-of-date and other modifications need to be made to the text of the regulations concerning where the family day care operations are permitted. In addition, Mr. Yearout stated the language is being prepared for the separate code to be adopted by the City and County concerning the inspection process by the Fire Department and Building Code Enforcement, both initially and on an annual basis.

Chairman Steinfort noted that there should be a fee incorporated into the inspection process to offset the time needed to make those inspections. Mr. Yearout noted that would be included in that document.

Mr. Yearout requested a motion from the Metropolitan Planning Commission to set the public hearing for the January 14, 2010, meeting. Commissioner Moyer moved to set the public hearing on the amendments to the City and County Zoning Regulations concerning the day care operations based on the information provided by staff. Commissioner Ziegler seconded the motion and it carried unanimously.

Item No. 3 – Discussion on Zoning Regulation amendment for new Duplex Residential Development District.

Mr. Yearout reviewed the staff report on the proposal to amend the Zoning Regulations for the City to create an overlay district in the “RD” Duplex Residential District. The intent is to establish a mechanism that would allow the creation of individual lots similar to those being created in Olivia Farms for those areas already zoned in the duplex district, but without going through the requirements of the Planned Development District. Mr. Yearout stated the primary interests were from some landowners in the Sutter Highlands development, which is currently zoned “RD”. Staff is supportive of the idea and will prepare the draft language for review at the public hearing, which staff would like to see set for the January, 2010, meeting.

One issue that needs to be discussed is the extent to which this overlay district might be used. There are a number of areas in the older neighborhoods that are zoned "RD" Residential Duplex, but the concept being approached with this idea may not be appropriate in those areas.

Considerable discussion was held concerning the areas where this might be appropriate and the extent to which documentation would be required to allow this to happen. It was the consensus of the MPC that the initial area of consideration only be the new developments west of Highway 77, primarily in the Sutter Highlands Addition. Also, a detailed site plan should be required for approval that shows the building elevations of the units to be constructed and the degree of amenities being proposed. This came from discussion that was held concerning Olivia Farms and the latest indication from the proposed Restrictive Covenants for Olivia Farms that the small townhomes in the areas recently replatted may not have garages. The MPC asked to deal with this issue further.

Mr. Yearout requested a motion from the Metropolitan Planning Commission to set the public hearing for the January 14, 2010, meeting. Commissioner Moyer moved to set the public hearing on the amendments to the City Zoning Regulations concerning the creation of an overlay district for the duplex-zoned areas west of US 77 to allow a method to create individual lots similar to the Olivia Farms development, subject to a site-plan review and approval process by the MPC and based on the information provided by staff. Commissioner Ziegler seconded the motion and it carried unanimously.

Item No. 4 – Schedule Meetings for update to Geary County Regulations.

Mr. Yearout requested the MPC set the meeting schedule for the work sessions on the update to the Zoning and Subdivision Regulations and the Sanitation Code for Geary County. Staff is recommending the third Thursday of each month, beginning on January 21, 2010. This will allow staff to establish meeting dates and develop a project schedule based on those dates. By consensus, the Metropolitan Planning Commission agreed to set the third Thursday of each month as the meeting date for the work sessions on the update to the Zoning and Subdivision Regulations and the Sanitation Code for Geary County, beginning on January 21, 2010.

Item No. 5 – Discussion on amendments to Geary County Regulations.

Mr. Yearout reviewed the staff report on two items that have been identified as needing amendments to the Zoning Regulations soon. The first is an amendment to the Geary County Zoning Regulations that moves a contractor's construction and/or storage yard from requiring industrial zoning to being allowed in the "AG" Agricultural District with a Special Use Permit, which requires a public hearing by the Metropolitan Planning Commission and final decision by the County Commission. This is in anticipation of a potential contractor's yard in connection with the pipeline being constructed across Kansas just to the west of Geary County.

The second issue deals with adding a zoning approval process for the siting of new communication towers in the County, and possibly in the City. Presently in the County, communication towers are permitted by right, which means there is no oversight for the placement of new towers. There have been recent inquiries about a new tower in the northern end of the County near Milford. The intent is to make these go through the same process of a Special Use Permit as proposed for the contractor's yard.

Mr. Yearout also noted the City Zoning Regulations allow these as permitted uses in the industrial zones and there is interest in requiring a zoning approval process for new towers.

All these amendments require a public hearing, which staff is recommending be set for the January, 2010, meeting. As with all the other issues raised at this meeting, a motion will need to be passed to set the public hearing.

Commissioner Gustafson moved to set the public hearing on the amendments to the City and County Zoning Regulations concerning the establishment of a Special Use Permit process for a contractor's construction and/or storage yard in the Agricultural District in the County; the establishment of a Special Use Permit process for a communication tower in the Agricultural District in the County; and concerning a zoning approval process for a communication tower in the City, based on the information provided by staff. Commissioner Ryan seconded the motion and it carried unanimously.

Item No. 6 – Project with KSU Students.

Mr. Yearout stated staff has made contact with the Masters in Community and Regional Planning professors at Kansas State University regarding a student project for Junction City and Geary County during the spring semester. The primary focus, at this point in time, is to address development standards for the central business district in the City, and to develop a statistical report on certain data on development patterns in the rural areas of the County. Staff is interested in any other ideas from the Metropolitan Planning Commission to be used in the preparation of the scope of this project. A meeting will be held over the Christmas holidays with the lead professor from KSU to prepare this project for the spring semester.

At this point in time, the Planning Commission members felt the issues identified by staff were appropriate to begin the process. As the project unfolds, some adjustments may be made; however everyone recognized the time available would be short and that some additional meetings might be held to address the project.

Mr. Yearout stated that a more detailed report, and possible presentation, would be made at the January, 2010, meeting. No further action is necessary at this time.

Item No. 7 – Olivia Farms.

Mr. Yearout noted the receipt of the revised Restrictive Covenants for the Planned Development District at Olivia Farms and the fact they call for a number of lots proposed for the individual townhomes on small lots to be built without garages. Mr. Yearout noted it was staff's belief the approval of the additional lots of this size were to be for townhomes that were like those that already existed south of Valentine Drive, which all have two-car garages accessible from the alleys behind each home. Mr. Yearout acknowledged he had no recollection that was stated explicitly, but was confident it was implied and asked if that was the recollection of the Planning Commission. All Metropolitan Planning Commission members felt their approval was granted based on the belief that garages would be included. Several members asked what recourse could be taken to resolve this question.

Mr. Yearout advised it was within the rights of the Metropolitan Planning Commission to set a public hearing to clarify this question, or any other provision of the conditions of approval to the Planned Development District. A simple motion and majority vote is all that is required to set the public hearing.

Commissioner Mortensen moved to call a public hearing for January 14, 2010, for the purpose of reviewing the development requirements in the Olivia Farms Planned Development District, in particular the issue of providing garages for the townhomes on small, individual lots. Commissioner Ziegler seconded the motion and it carried unanimously.

6. ADJOURNMENT

Commissioner Ziegler moved to adjourn at 9:10 p.m. Commissioner Ryan seconded the motion and it carried unanimously.

PASSED AND APPROVED THIS _____ DAY OF _____, 2010.

Mike Steinfort, Chairman

ATTEST:

David L. Yearout, AICP, Secretary