

**JUNCTION CITY - GEARY COUNTY
METROPOLITAN PLANNING COMMISSION
AND
BOARD OF ZONING APPEALS
August 20, 2009**

Rescheduled from August 13, 2009 Due to Publication Errors

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
Kim Moyer**

1. CALL TO ORDER AND ROLL CALL

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

2. APPROVAL OF MINUTES

Staff reported the minutes of the July 9, 2009 meeting were not ready. These would be provided for action at the September meeting.

3. OLD BUSINESS

Item #1: Public Hearing on Case No. Z-6-2-09.

This is the request of Todd Godfrey, contract buyer, and Johnson Family Acquisitions, Inc., owner, to rezone property at 1301 West 8th Street, from "RS" Suburban Residential to "CS" Service Commercial. Staff reported the case is being withdrawn. A copy of the letter from the applicant was enclosed in packet. No further action of the Planning Commission is required.

Item # 2: Public Hearing on Case # Z-8-1-09 (formerly Case # Z-6-1-09).

This is the public hearing on the request of Mike Harris, contract buyer, and Patsy Zeik, owner, to rezone property at 7326 Laurel Canyon Road, from "CR" Restricted Commercial (non County Zone) to "CG" General Commercial. Chairman Steinfort called the public hearing to order.

Mr. Yearout indicated a large amount of information was provided in the packet, which included a copy of the Tax Unit Map showing the properties within the Water District and Sewer District for this area, an aerial photo of the area

taken within the past year, and minutes of the Board of County Commissioners and Metropolitan Planning Commission meetings over the years that addressed the original zoning to commercial in 1969 and subsequent requests to change the zoning over the years.

Mr. Yearout stated he had talked with Mr. Harris, who indicated he would like to continue this case until next month in order to evaluate whether he wished to continue forward at all. Mr. Yearout stated his research had determined the actual zoning on the property is "CN" Neighborhood Commercial. The zoning does not permit any of the activities on the property, which includes the bait shop, storage of boats and recreational vehicles, or the placement of the manufactured home. These activities may be "grandfathered", but more research will be needed. Also, Mr. Yearout stated the policy of the County will be that the water and sewer service will need to be extended if any expansion of the facilities or uses occur on the property.

Dennis Cox, Geary County Public Works Director, stated that to upgrade the sewer system it may require a lift station and crossing at Canyon Road, but more information would be needed in order to determine this. Mr. Harris would have to show the County how he planned to extend the sewers to the main line. The property owner would have to pay to have it done and show that it could be done before they could proceed any further.

Chairman Steinfort called for comments from the public. Hearing none he declared the public hearing closed.

Ms. Gustafson moved to continue this case until the September meeting. Mr. Mortensen seconded the motion and it passed unanimously.

Item # 3: Case # FDP-7-1-09 and Case # FP-7-2-09, Consideration of the Final Development Plan for the Planned Development District at Olivia Farms, and the replat of two blocks within Olivia Farms in conformance with the revised Final Development Plan.

This is the request of Landplan Engineering, P.A., applicant, on behalf of the owner/developer, Fort Development, LLC, for the approval of the Final Development Plan for a portion of the Planned Development District at Olivia Farms and the replat of two blocks (Blocks Six and Seven) of Olivia Farms to Olivia Farms 3rd Addition in order to allow the property to be developed in accordance with the intent of the Final Development Plan.

Mr. Yearout stated the Final Development Plan issues have all been resolved to the point the project should be allowed to move forward. Work is being finalized for how the common amenities will be addressed. Most probably when the portion of the development is addressed in the next phase these issue will be resolved. The main change in this Final Development Plan means there would be 51 new townhomes to the north of Valentine Drive.

As for the Final Plat, staff indicated the additional labeling of the setbacks had been shown and staff is recommending the plat be approved.

Janelle Phillips, Landplan Engineering, stated the applicant was in agreement with staff regarding the Final Development Plan and the only item at issue with the Final Plat of Olivia Farms 3rd Addition was that D.S. & O. Electric is requiring an additional easement of 5' adjacent to either side of the alley to accommodate installation of their underground lines. This will be shown on the Final Plat document taken to the governing body.

Mr. Yearout stated that the developer would be incurring all costs associated with the changes required due to the redesign of this area.

Mr. Mortensen moved to approve FDP-7-1-09, the Final Development Plan for a portion of Olivia Farms, a Planned Development District as shown on the Final Development Plan submitted at this meeting. Mr. Moyer seconded the motion and it passed unanimously.

Ms. Gustafson moved to approve FP-7-2-09, the Final Plat of Olivia Farms 3rd Addition, as presented with the condition that the required utility easements identified by the electric utility be shown on the final plat and that all costs associated with modifications to the infrastructure because of this change are paid exclusively by the developer. Mr. Mortensen seconded the motion and it passed unanimously.

Item # 4: Consideration of Bylaws for the Metropolitan Planning Commission.

Mr. Yearout suggested this item be carried forward until the end of the meeting. The Planning Commission agreed.

4. NEW BUSINESS

Item # 1: Case # Z-8-2-09 Consideration of amendment to the Planned Development District Final Development Plan for a portion of Olivia Farms and consideration of Case # FP-8-1-09, a replat of the portion of Olivia Farms covered by this zoning case to be named Olivia Farms 4th Addition.

This is the public hearing on the request of Paul Werner Architects and Landplan Engineering, P.A., applicants, on behalf of the owner/developer, Fort Development, LLC, for an amendment to the Final Development Plan for a portion of the Planned Development District at Olivia Farms located immediately north of Rucker Road and east of Fort Avenue, and the replat of the same area to be named Olivia Farms 4th Addition. Chairman Steinfort called the public hearing to order.

Mr. Yearout indicated the proposal submitted showed a lot of change for this area from the approved Preliminary Development Plan. In particular, the proposal shows the vacation of Lucy Court as a public street and converting it to a private drive; placement of all parking in this same area off the access drives much like you see at The Bluffs; no garages or other covered parking areas; the change from all duplexes to a combination of duplexes and fourplexes, going from 34 dwelling units to a total of 64 dwelling units; the loss of the temporary emergency access onto Lucy Court from Rucker Road; and the apparent intent

to make all these rentals. Staff discussed some of these issues, especially the issue of vacating the public street, with Bond Counsel for the City and have been advised the portion of the outstanding bonds secured by these improvements would need to be paid off in order for the street to be vacated.

Mr. Steinfort wanted to know what the implications of making Lucy Court a private drive would be. Mr. Yearout stated that the developer would be totally responsible for the private drive, including maintenance such as snow removal and any repairs that would need to be made.

Mr. Steinfort then asked if this would also mean they could make it into a gated community and Mr. Yearout stated there was nothing that would prevent that from happening unless specific restrictions were made within the approval of the Final Development Plan.

Mr. Paul Werner, architect for the development, stated additional time was needed to get all the details worked out. The pool, clubhouse and tot lot were originally offered to the City for maintenance but the City declined. The owner is working out this issue with the covenants as they would dictate how and who would be responsible for them. Further, there was no intent to acquire the street area and that issue needs additional time for discussion. And, finally, the issue of the temporary emergency access from Rucker Road was overlooked and will need to be further addressed.

Mr. Mortensen asked if there were any other means of access onto Rucker Road in this development. Staff indicated the ultimate intent appears to be to have Wilma Way eventually extend to Walla Walla Road. Until that happens, a second means of access needs to be provided.

Chairman Steinfort called for comments from the public. Hearing none he declared the public hearing closed.

Mr. Moyer moved to continue these cases until the September meeting to allow time for the staff and the applicant to address the issues discussed. Mr. Dibben seconded the motion and it passed unanimously.

Item #2: Case # FP-8-2-09 Final Plat of McConnell Addition.

This is the request of Kaw Valley Engineering, Inc., applicant, on behalf of Unified School District 475 owner, for approval of the Final Plat of McConnell Addition to Junction City, Kansas, said property being generally located at 1725 Old Highway 40. The plat is to allow the construction of additional buildings on the property by the School District. The land is presently unplatted and, as required by the Subdivision Regulations, must be platted in order for a building permit to be issued.

Mr. Yearout stated that this is a single lot plat for USD 475 at 1725 Old 40 Highway. The plat is to allow the construction of additional buildings housing the central kitchen for the School District. The land is presently unplatted and, as required by the Subdivision Regulations, must be platted in order for a building permit to be issued. The only issues to date deal with extending the water line

onto the Industrial Park land to the east in order to loop the water line and enhance fire protection; placement of the necessary fire hydrant; and the potential of additional right-of-way along Old 40 Highway to meet the requirements of the Regulations.

Mr. Leon Osbourn – Kaw Valley Engineering, stated that the adjacent landowners are in agreement with granting an easement for the water line extension and that the School District will be installing a new fire hydrant as directed by the City for fire protection. As for the additional right-of-way, a portion of the land is currently covered by improvements from the Gas company and would need to be accounted for in any other actions concerning the road.

Mr. Yearout stated that staff recommends approval of the final plat subject to the issue being resolved on the water line extension via a separate utility easement and the potential for additional right-of-way along Old 40 Highway based on direction from the City Engineer.

Mr. Moyer moved to approve final plat as presented, subject to the recommendation of staff concerning the granting of additional right-of-way and the obtaining of a separate easement for the water line extension. Mr. Mortensen seconded the motion and it passed unanimously.

Item #3: Case # TA-8-1-09- Proposed Text Amendments to Junction City Zoning Regulations.

This is the public hearing on two proposed text amendments to the Junction City Zoning Regulations concerning the separation distance between accessory buildings and the principal building on the same lot, and concerning limitations on access to streets and public ways from parking areas. The proposed amendments were initiated by staff and set for public hearing by motion of the Metropolitan Planning Commission. Chairman Steinfort called the public hearing to order.

Mr. Yearout stated there were two sections of the Zoning Regulations being addressed in these amendments. In Section 410.040, the separation distances between the principal and accessory buildings on the same residential lot is an issue for building codes and not for Zoning Regulations. Further, if a use changes, the Building Codes will address remedial actions necessary when such condition occurs. In staff's opinion, it is not appropriate for Zoning to set such restrictions.

Mr. Yearout stated in Section 420.020, the provision that says that vehicles may not back into a thoroughfare or alley is impossible to enforce and, if an attempt was made to enforce it, no off-street parking would be allowed anywhere in the City except on dead-end streets and cul-de-sacs. It is arguable the language is improper for Zoning Regulations because this is not the place to regulate the operation of a vehicle. And to not allow backing into a thoroughfare or alley would render virtually every lot impossible to provide parking. A thoroughfare, by definition, is any street that leads at each end into another street. And virtually every alley, especially in the older part of the City, was intended specifically for access to "parking" areas. In the beginning, this was where barns and stables were located for the livestock that were used by the

carriages and buggies. Later, those were converted to garages for automobiles. And even the newer developments have reintroduced parking off the alleys such as was just approved in Olivia Farms.

Staff recommends that the Metropolitan Planning Commission recommend approval of the amendment to these two sections of the Junction City Zoning Regulations, using the language as proposed in the staff report.

Chairman Steinfort called for comments from the public. Hearing none he declared the public hearing closed.

Mr. Ryan moved that the proposed amendments to Section 410.040(C)(2) and Section 420.020(C) of the Junction City Zoning Regulations as presented by staff be recommended for approval to the Junction City governing body. Ms. Gustafson seconded the motion and it passed unanimously.

Item #4: Proposed Interlocal Cooperation Agreement – KDOT.

The US-77/K-18 Corridor Study has been completed and KDOT now wishes to implement the Plan through the Interlocal Cooperation Agreement proposed. Mr. Yearout suggested this item be moved to the end of the meeting and the MPC agreed.

RECESS AS METROPOLITAN PLANNING COMMISSION

Ms. Gustafson moved to recess as the Metropolitan Planning Commission and convene as the Board of Zoning Appeals. Mr. Moyer seconded the motion and it passed unanimously.

CONVENE AS BOARD OF ZONING APPEALS (8:03PM)

1. OLD BUSINESS

Item #1: Case #: BZAV-8-1-09 (formerly Case #: Z-6-1-09)

This is the public hearing on the request of Kazuko Barksdale, owner, and Larry Rexrode, contract buyer, for a variance from the minimum lot size requirements for property located at 116 East 16th Street, Junction City, Kansas. Chairman Steinfort called the public hearing to order.

Mr. Yearout stated that the variance is for a minimum lot size in order for the owner to increase his usage of available land for his business. It was recommended to be withdrawn at the June meeting because staff misunderstood the requirements of the Regulations. The present zoning establishes a minimum lot size requirement that most properties within this district do not meet. Ultimately the regulations will be amended to make this provision more consistent with how land is actually developed.

Ms. Sheila Burdette, Century 21 Reality, stated that the intended use of the buyer is to park U-Haul trailers on the lot at the present time and to possibly construct a small building on the lot at a future time.

Chairman Steinfort called for comments from the public. Hearing none he declared the public hearing closed.

Mr. Ryan moved to approve the variance as presented. Mr. Mortensen seconded the motion and it passed unanimously.

2. NEW BUSINESS

Item # 1: Public Hearing on Case #: BZAV-8-2-09

This is the public hearing on the request of Michael and Kim Wagenblast, owners, for a variance from the front yard setback requirements for an accessory garage on property located at 10100 Quarry Road, Milford, Kansas. Chairman Steinfort called the public hearing to order.

Mr. Yearout stated the applicant wanted to construct a detached garage on their property however the only other place would put the garage over the septic system, which is not permitted. The only other place is at the location proposed, which is north of the existing drive immediately west of the hedge row along Quarry Road. The setback is 50 feet from front property line, but that is over the septic system.

Mr. Wagenblast concurred with the staff analysis. He indicated the topography on the balance of the 3-plus acres does not provide any other location that will work for the garage. Further, there is an existing graveled area at the proposed location that is being used for a parking area at the present time.

Chairman Steinfort called for comments from the public. Hearing none he declared the public hearing closed.

Mrs. Gustafson moved to approve variance as presented. Mr. Moyer seconded the motion and it passed unanimously.

ADJOURN AS BOARD OF ZONING APPEALS

Mr. Moyer moved to adjourn as the Board of Zoning Appeals and reconvene as the Metropolitan Planning Commission. Mr. Dibben seconded the motion and it passed unanimously.

RECONVENE AS METROPOLITAN PLANNING COMMISSION

4. NEW BUSINESS

KDOT – Interlocal Cooperation Agreement

Mr. Yearout stated that the US77/K-18 Corridor Management Plan is now finished. The Plan is used for managing development along certain highways and the agreement is being brought before the board strictly for acknowledgement. The studies are generally done only around communities that have growth going on affecting the highway systems. Ultimately the Plan will be adopted as a part of the overall Comprehensive Plan for Junction City and Geary

County. The agreement is for both the city and the county, along with the City of Milford, which will have to approve the agreement as well.

Several members of the Planning Commission asked for a copy of the Management Plan in order to more fully understand the intent of KDOT on this issue. All were supportive of what is being done.

Ms. Gustafson moved to recommend approval of the Interlocal Agreement with KDOT for the US77/K-18 Corridor Study area by both the City of Junction City and Geary County. Mr. Mortensen seconded the motion and it passed unanimously.

3. OLD BUSINESS

Bylaws for MPC

Mr. Yearout noted the draft bylaws were taken from several other versions he had prepared for many other communities. He pointed out the specific areas to which he felt the Planning Commission should give attention addressed a clear statement of a meeting date, time and place so that meeting schedules for the year can be established; and clarification on the voting of the Chair on regular motions.

The Planning Commission asked several questions concerning other issues, particularly on the issue of disclosure of the nature of a conflict of interest, especially since two members work in the financial industry and were not allowed to disclose the nature of such a conflict. Mr. Yearout stated he would discuss this question with the City Attorney, but was of the opinion that a “business conflict” statement would suffice.

Another question dealt with subsequent changes to the bylaws and that it should require a majority of the entire membership and not just a majority of a quorum. Mr. Yearout said he would address that issue in a revised version for consideration by the Planning Commission.

It was agreed to continue this issue to a later date in order to resolve some questions and to allow the members more time to review the bylaws.

5. GENERAL DISCUSSION

Mr. Yearout stated that he would like to suggest scheduling an additional meeting per month in order to begin the rewrite of the Zoning and Subdivision Regulations for both the city and the county. The county regulations will most likely have a greater degree of change than the city regulations and staff would suggest starting there.

Some questions were raised concerning how long each meeting would take. Mr. Yearout said it should be planned that each meeting will take at least a couple of hours, depending upon the topics being discussed and the level of discussion on each item. Several Planning Commission members acknowledged that a similar schedule was established to update the Comprehensive Plan and

the special meetings on that document would sometimes go longer than a normal meeting.

Staff said it made sense to consider two weeks between the meetings in order to allow time for documents to be prepared and, as a result, would suggest the 4th Thursday of the month at the same meeting time. The hope is to have an open meeting with the “stakeholders” in the community to discuss some general ideas before any specific language is prepared for consideration.

Mr. Mortenson moved to tentatively set the first meeting for consideration of the rewrite of the Zoning and Subdivision Regulations for September 24th. Mr. Moyer seconded the motion and it passed unanimously.

6. ADJOURNMENT

Mr. Moyer moved to adjourn at 9:15 pm and Mr. Ryan seconded. Motion passed unanimously.

PASSED AND APPROVED THIS _____ DAY OF _____, 2009

Mike Steinfort, Chairman

ATTEST:

David L. Yearout, AICP, Secretary