

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

**MINUTES**

**December 13, 2012  
7:00 p.m.**

**Members  
(Present)**

Maureen Gustafson  
Mike Ryan  
John Moyer  
Ken Mortensen  
Chuck Mowry  
Mike Watson

**Members  
(Absent)**

Brandon Dibben

**Staff**

David Yearout  
Shari Lenhart

**1. CALL TO ORDER & ROLL CALL**

Chair Gustafson called the meeting to order at 7:00 p.m. and noted all members present except Commissioner Dibben. A quorum was declared.

**2. APPROVAL OF MINUTES**

Commissioner Mortensen moved to approve the minutes of the November 8, 2012, meeting as presented. Commissioner Moyer seconded the motion and it passed unanimously.

**3. OLD BUSINESS - None**

**4. NEW BUSINESS**

**Item No. 1 – Case No. SUP-12-01-12 – Public Hearing to consider a Special Use Permit for a night watchman facility.**

Chair Gustafson opened the public hearing on the application of Sean Riley, agent, on behalf of Roger Seymour, owner, requesting a Special Use Permit to allow placement of a Recreational Vehicle for a night watchman facility on property zoned “IL” Light Industrial District at 239 East 7<sup>th</sup> Street, Junction City, Kansas, and asked for the staff report.

Mr. Yearout stated this is the old “Ice Plant” property. It had been identified for condemnation earlier in the year, but the property owner, Mr. Seymour, has worked hard to get the building back into compliance with the building codes. Mr. Seymour has now leased the building to Mr. Riley for his motorcycle repair business. This is the first business at this location for a long time.

Mr. Riley is currently residing in a recreational vehicle, which has been placed on the property. His desire is to have it designated as living quarters for a night watchman.

The "IL" District states that a watchman may reside on the premises. However, the use of a recreational vehicle for the living quarters is not permitted. Therefore, Mr. Riley is seeking a Special Use Permit to permit the use of the recreational vehicle as living quarters. The "night watchman" is Mr. Riley.

Mr. Yearout noted staff believes the intent of the regulations is that the living quarters should be in the building. Allowing a recreational vehicle to be used in this fashion in the industrial area will defeat the spirit and intent of the regulations. Staff also believes this could set a bad precedent that might result in others within the community seeking to do the same thing.

Mr. Yearout noted the current location of the recreational vehicle may provide protection for the south property side but does little or nothing for the 7<sup>th</sup> Street side. As outlined in greater detail in the staff report, Mr. Yearout noted staff has a hard time justifying why this location serves the purpose of a "night watchman" rather than a residence for the business operator. Therefore, staff is recommending denial of the Special Use Permit.

However, should the Metropolitan Planning Commission desire to recommend approval, staff believes the placement should be treated the same as the placement of a recreational vehicle in a Recreational Vehicle Camp as specified within the City Code. This means the unit needs to be connected to public water, sewer, properly secured, and the parking area provided needs to be either asphalt or concrete. Additionally, placement of the recreational vehicle should be tied to the duration of the existence of the business at this location only.

Mr. Yearout stated that a couple of inquiries were received from surrounding property owners and staff explained the request and procedure. The individuals were advised of their right to appear at this meeting.

There being no comments or questions of staff, Chair Gustafson opened the meeting for public comment.

Mr. Roger Seymour, 1181 Rock Springs Lane, Manhattan, stated the unit that Mr. Riley has is not a recreational vehicle, but is what is known as a "park model." There are unique differences, such as the size of the holding tank and the anchoring requirements; as well as other minor differences. Mr. Seymour believed this is important.

Mr. Seymour then stated Mr. Riley has a small business that is presently struggling. He stated he believed this is a good location for his small engine and motorcycle repair business. Mr. Seymour stated he believes Mr. Riley's business is a positive addition to the economy of Junction City and that Mr. Riley hopes to grow the business so there is a possibility of future job growth. Mr. Seymour stated Mr. Riley has some very expensive tools and until such time a viable security system can be installed in the building; there is a need for a night watchman. This can be accomplished by approving the requested Special Use Permit.

Mr. Seymour stated it would be agreeable to meet the City codes for the placement of the recreational vehicle the same as within a licensed RV camp; however, it would be unreasonable to require the area to be asphalt or concrete based on the fact that the alley is gravel.

Mr. Seymour concluded by requesting approval of the Special Use Permit for Mr. Riley to place his recreational vehicle for night watchman purposes. He indicated that in his opinion approval of this request would not be a detriment to the area. Commissioner Mortensen asked Mr. Seymour if the recreational vehicle could be located in the building. Mr. Seymour stated "no" because of dock height, possible emergency, and loss of working space.

Commissioner Mortensen then asked if Mr. Seymour had considered partitioning off an area inside the building for living quarters. Mr. Seymour indicated that structures like this do not do well in a tornado.

Chair Gustafson stated history indicates Mr. Riley has relocated his business to a couple of different locations in Junction City and it is apparent he is using the trailer as his living quarters. In lieu of this, what period would be needed to install a security system?

Mr. Riley stated he would like to at least get through next summer. He indicated he has been in Junction City for about two and a half years and one and a half months at this location.

There being no further appearances, Chair Gustafson closed the public portion of the hearing and asked for questions or comments from the Commission.

Commissioner Mortensen stated he drove by the location and he does not have a problem with this request. He stated he believes it needs to be tied down. He observed this is an industrial area and an older part of town. As such, he does not have a huge issue with approving it. He further stated that if this were for a residence where clothes lines, lawn chairs, bar-b-ques, and such were going to be kept outside, there would be a concern and he would be opposed. He also stated he felt the Special Use Permit should have a one-year stipulation to give Mr. Riley time to have a security system in place.

Chair Gustafson stated a concern would be in setting precedence; however, this is in an industrial area and not a residential setting so this would not be as big of a concern. She stated she believed if the permit is approved it should be for a very limited time to allow Mr. Riley the opportunity to establish the business and accrue some cash flow.

Commissioner Mowry stated his issue is gravel versus paving of the area. He felt the City had established a standard that should be applicable for everyone.

Mr. Yearout stated that several years ago, the City Commission adopted an ordinance that everything in town would be paved. An exception can be granted by the City Commission and the Commission has done that in a couple of cases. It is on the "to do" list to have the Governing Body revisit this requirement simply because of areas like this where there is a gravel alley and the requirement to have the entire parking area paved could cause drainage problems and loss of "green" areas. Mr. Yearout stated that if the recommendation is to approve the Special Use Permit, the recommendation to leave the parking area "as is" and not require asphalt or concrete can be included.

Commissioner Watson indicated he does not like the idea of setting precedence. The next person requesting the use of a recreational vehicle for "night watchman" quarters might be in a worse position and the City would have a problem denying it. He stated he

is not doubting that there may be a need for a night watchman; but he feels this is being established for a residence and can see no way to construe it as a "night watchman".

Commissioner Ryan concurred with Commissioner Watson in that if it were a true "watchman" facility, it would not be occupied while the shop is closed and would only be used for sleeping by the "watchman" during regular business hours during the day. Otherwise, it is being used as a residence. If this is approved, it needs to meet the requirements of the Inspection Department. Commissioner Ryan indicated the tongue of the unit appears to be in the alley. Mr. Riley responded that it is on the edge but not in the alley right-of-way.

Commissioner Moyer asked if the City Commission has the final say. Mr. Yearout indicated the MPC makes a recommendation and the City Commission has the final say.

Mr. Yearout stated that if this request was for a more remote location, such as in the County, staff would not have as much concern. This is a visible location, especially from the 6<sup>th</sup> street overpass. If a similar request is received, the first comment the City will hear if it is approved on 7<sup>th</sup> Street it should be approved anywhere.

A question was raised concerning the status of the residences in the area. Mr. Yearout stated that all the residential homes in the surrounding industrial area are grandfathered because a residential use is not permitted in an industrial district.

Chair Gustafson recognized Mr. Seymour's request to address the Commission again.

Mr. Seymour suggested the Special Use Permit could have stipulations attached regarding such things as the age of the unit and limitations on outdoor amenities. If violated, the Special Use Permit would be pulled. Mr. Seymour stated he believes there is definitely a need for a night watchman because of all the expensive tools, equipment and motorcycles and that Mr. Riley's recreational vehicle would be an acceptable facility.

There being no further discussion, Chair Gustafson asked for a motion.

Commissioner Mortensen moved that Case No. SUP-12-01-12, the application of Sean Riley, agent, on behalf of Roger Seymour, owner, requesting a Special Use Permit to allow placement of a recreational vehicle for a night watchman on property zoned "IL" Light Industrial District at 239 East 7<sup>th</sup> Street, Junction City, Kansas, be recommended for approval by the City Commission of Junction City, Kansas, based on the findings as presented at this public hearing; subject to the following conditions:

1. The recreational vehicle shall be connected to City water and City sanitary sewer services;
2. The recreational vehicle shall be properly secured for occupancy as required by the City Code for placement of a recreational vehicle in a Recreational Vehicle Campground;
3. All property used for parking, access drives and loading areas shall be exempt from the City Ordinance requiring such areas to be paved with asphalt or concrete; and

4. The Special Use Permit shall be valid for one year or only for so long as the motorcycle repair business of Mr. Riley remains at this location, which ever comes first. At such conclusion, the Special Use Permit shall be deemed null and void and no recreational vehicle shall be permitted to be placed on this property for any purpose. This Special Use Permit is non-transferable and intended for the sole purpose of providing a night watchman facility for Mr. Sean Riley as a security measure for his business at this specific location.

Commissioner Moyer seconded the motion. Commissioners Mortensen, Moyer and Gustafson voted yea; and Commissioners Ryan, Watson and Mowry voted nay. The motion was declared defeated because it did not receive a majority.

Mr. Yearout stated a tie vote means the motion fails. The MPC must forward a case to the Governing Body with a recommendation either for or against on the first consideration. None of the Commissioners present wished to change their vote. Mr. Yearout recommended the case be tabled until the January meeting with the anticipation of all Commissioners present.

Commissioner Moyer moved to table Case No. SUP-12-01-12, the application of Sean Riley, agent, on behalf of Roger Seymour, owner, requesting a Special Use Permit to allow placement of a Recreational Vehicle for a night watchman on property zoned "IL" Light Industrial District at 239 East 7<sup>th</sup> Street, Junction City, Kansas, to the regular January, 2013, meeting. Commissioner Watson seconded the motion and it passed unanimously.

**Item No. 2 – Case No. TA-12-01-12 – Public Hearing to consider a Text Amendment to the Junction City Zoning Regulations.**

Chair Gustafson opened the public hearing on the application initiated by the Metropolitan Planning Commission to amend the Junction City Zoning Regulations relating to where churches, schools, and other places of assembly are authorized and the process for approval, and asked for the staff report.

Mr. Yearout stated the actual text amendment language is not complete and asked the Commission to table this item until the January meeting.

Commissioner Ryan moved to table this item until the regular January, 2013, meeting date. Commissioner Watson seconded the motion and it carried unanimously.

**THERE ARE NO CASES FOR THE BOARD OF ZONING APPEALS**

**5. GENERAL DISCUSSION**

**Item No. 1 – Update on status of Metropolitan Planning Organization.**

Mr. Yearout stated an agreement has been tentatively reached among all the participants concerning the MPO. He briefly elaborated on some of the voting particulars for the benefit of the Commission.

Mr. Yearout indicated there are two primary documents that must be developed and maintained by the MPO, the Transportation Improvement Plan (TIP) and the

Transportation Demand Model (TDM). The MPO is still to be housed with the Flint Hills Regional Council (FHRC). An interim Executive Director has been hired by the FHRC due to the previous Executive Director taking an out-of-state position. The governing bodies participating in the MPO are being strongly encouraged to finalize the MPO agreement in the very near future, with final action locally planned for January, 2013.

**Item No. 2. – Presentation on Street Condition Analysis – City Engineering**

Mr. Yearout introduced Greg McCaffery and Kris Finger of the City Engineering Department, who will be providing the brief overview of the Street Condition Analysis conducted by the City Engineering Department over the past year. Mr. Yearout noted the information being presented is relevant to the Comprehensive Plan. It will point out the kind of details that are essential for a good Transportation element within the Plan and how the detailed analysis is relevant to recommendations made within the Capital Improvement Plan.

Mr. McCaffery reviewed the mechanics of the rating system used in establishing the condition of the City's public street system and how that applies to budget expenditures. In particular, Mr. McCaffery noted the system is valuable in showing which streets may be eligible for "quick fixes"; as opposed to those that need more extensive repairs or a total reconstruction. Mr. McCaffery noted the City has 170 miles of streets and almost half of them need some type of repair work. The computer program used for this analysis has the capability to use the data in generating maps that can identify high priority to low priority maintenance areas.

Mr. Finger indicated it was his job to do a physical review of all the city streets to determine the initial rating. This was completed with the assistance of others within the City Engineering Department. Mr. Finger reviewed one of the maps showing the streets and how they have been rated.

Mr. McCaffery stated the City Engineering Department is having an open house on December 20, 2012, to present the findings of the full analysis of the City streets. He invited the Commissioners to attend to see the rest of the information. The purpose is to explain to the public the City's maintenance program, what is currently occurring and future road repairs.

**Item No. 3 – Animal Control Issue**

Mr. Yearout informed the Commission that the Governing Body is proposing to rewrite the City ordinances relating to animal control issues. The proposed revisions primarily address the "keeping" of dogs. The proposed revisions will create conflicting regulations with the Zoning Regulations in its present form. The Governing Body has suggested the MPC hold a public hearing to amend the relevant portions of the City Zoning Regulations to conform to the overall changes being made. Mr. Yearout asked for a motion to set a public hearing for this purpose at the January, 2013, meeting.

Commissioner Mortensen moved to set for public hearing a proposed text amendment to the City's Zoning Regulations dealing with the keeping of animals to be considered at the regular January, 2013, meeting. Commissioner Watson seconded the motion and it carried unanimously.

**Item No. 4 – Other Issues**

Mr. Yearout stated the City Manager is advocating the conversion of the MPC process to a "paperless" system similar to what is being done with the City Commission. The City uses a program called Agenda Pal which posts the agenda and all supporting information on a website. The City Commissioners each have an iPad to review all the information for each meeting. The City Manager has indicated a desire to see the MPC go to this system as well. However, to do this will mean each member of the MPC will need an iPad to make the system work. The iPads would belong to the City and would be returned to the City when a member of the MPC/BZA left. It is unknown if or when this will happen. Staff will keep the members informed as this moves forward.

**6. ADJOURNMENT**

There being no further business, Commissioner Watson moved to adjourn the meeting. Commissioner Ryan seconded the motion and it passed unanimously. Chair Gustafson declared the meeting adjourned at 8:45 p.m.

**PASSED AND APPROVED this \_\_\_\_\_ day of January, 2013.**

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**Maureen Gustafson, Chair**

**ATTEST:**

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**David L. Yearout, Secretary**