

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

MINUTES

**June 13, 2013
7:00 p.m.**

Members
(Present)

Members
(Absent)

Staff
(Present)

Maureen Gustafson
Ken Mortensen
Mike Watson
Brandon Dibben
Chuck Mowry

John Moyer

David Yearout
Shari Lenhart

1. CALL TO ORDER & ROLL CALL

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

2. APPROVAL OF MINUTES

Commissioner Dibben moved to approve the minutes of the May 9, 2013, meeting as written. Commissioner Mortensen seconded the motion and it carried 4 to 0, with Commissioner Watson abstaining because he was not present at the meeting.

3. OLD BUSINESS

Item No. 1 – TA-01-01-13 – Continuation of Public Hearing to consider a Text Amendment to the Junction City Zoning Regulations.

Chair Gustafson reopened the public hearing on the application initiated by the Metropolitan Planning Commission to amend the Junction City Zoning Regulations relating to the keeping of animals, and asked for the staff report.

Mr. Yearout stated the final draft has been completed by City staff; however, final action has not been scheduled before the City Commission. Mr. Yearout indicated that staff is recommending this case be continued to the next meeting or until staff knows for sure what changes the City Commission will make to the City Code regarding various issues dealing with the keeping of pets.

Commissioner Mortensen moved to continue this case until the July meeting. Commissioner Mowry seconded the motion and it carried unanimously.

Item No. 2 – GCCU-04-01-13 – Public Hearing to consider an application for a Conditional Use Permit.

Chair Gustafson reopened the public hearing on the application of Roger Huston, owner, seeking a Conditional Use Permit to establish a boat storage business, and asked for the staff report.

Mr. Yearout stated that Mr. Houston formally withdrew his application in light of the issues raised at the public hearing last month, especially regarding the KDOT issues. As stated in the staff report, no further action is required by the Commission and this case is now considered closed.

4. NEW BUSINESS

Item No. 1 – FP-06-01-13 – Public Hearing to Consider the Final Plat for Easy Jack’s Subdivision.

Chair Gustafson opened the public hearing on the application of Kaw Valley Engineering, agent, for Jerry Welsh, Administrator for Jack Welsh Estate, owner, seeking approval of the Final Plat of Easy Jack’s Subdivision, located on the southeast corner at the intersection of Milford Lake Road and Easy Jack’s Road, Geary County, Kansas, and asked for the staff report.

Mr. Yearout stated Mr. Welsh inquired about dividing the property into lots in order to settle the estate of his father. Mr. Welsh presented a drawing his father had prepared by a surveyor in the 1960’s showing how the land might be divided into lots; however, that plan was never approved by the County nor was it ever recorded of public record. Mr. Welsh was informed that the failure to obtain approval and record the plan did not provide any vested rights to divide the land in that manner today. In order to create new lots now, the property would need to be platted in conformance with Geary County Subdivision Regulations.

Mr. Yearout stated the proposed plat divides the 31.76 acres into 4 lots. The lots are to be passed to Mr. Welsh’s heirs. The platting reconfigures the two properties created for the homes of Jerry Welsh and Shawna Welsh which front on Easy Jack’s Road. The other lots provide separate properties for the other home for Jamin Welsh, the balance for Mr. Welsh’s home, and the business.

Mr. Yearout stated the property was developed over the years by the Welsh family as a salvage yard with a total of four homes for family members. It is unclear whether the established homes were done in conformance with the County Zoning, Subdivision, and Sanitation Regulations in effect at that time. It is known there is no record of a permit or approval for the placement of the last residence, a double-wide manufactured home. According to the Geary County Public Works Department, all the driveways on Easy Jack’s Road have existed for many years.

Mr. Yearout stated the primary issue that needs to be resolved is the fact that all four of the homes and the commercial office building for the salvage business are presently using the one common residential lagoon. This situation has never been recognized by either State law or the County Sanitation Code except in very rare occasions, and then only with lots of documentation of record. By State law, two or more homes served by one wastewater

system is classified as a public sewer, and must be owned and operated by a public entity. In this case, that would be by Geary County.

Mr. Yearout stated staff is generally supportive of the proposed plat because it does not create any more "lots" than currently exists. The manner in which the lots are configured is to accommodate each of the four homes on their "own" lot. Mr. Yearout stated even though the lot configuration does not comply with the strict standards of the Subdivision Regulations staff is supportive of the layout. Article 6-101 in the Regulations provides latitude for the Governing Body to grant "rule exceptions". Mr. Yearout stated staff would recommend the proposed plat be approved subject to the Governing Body approval of rule exceptions as to frontage and width to depth ratios for the final plat, and subject to meeting County Sanitation Code requirements for a private on-site wastewater treatment system for each home and the business.

There being no questions of staff, Chair Gustafson opened the hearing for public comment.

Jerry Welsh, 6307 Easy Jack's Road, stated he had always been under the impression the document their father had prepared back in the 1960's was official. After consultation with the family's attorney, Mark Edwards, it was determined the property must be platted to be legally divided in order to close the estate. Mr. Welch pointed out that the proposed Lots 1, 2 & 3 give equitable home site acreage to his brother, sister, and himself. The large lot (Lot 4) stays with the business. Mr. Welch stated, as far as he knew, the lagoon was constructed to existing code requirements. He also explained each home has a utility easement to the lagoon.

Jamine Welsh, 6229 Easy Jack's Road, stated the double-wide is a 1996 model, which is in conformance with county regulations and was set in 2008.

Don Hynes, 5813 Easy Jack's Road, commented that if the lagoon was designated for use as a public facility, a person with a Class 1 inspector's license could monitor the lagoon. He said that person is responsible to insure that the lagoon is operating properly. Mr. Hynes indicated he held such a license. In response to inquiry, Mr. Hynes stated he was a neighbor and friend of the Welsh's.

Lisa Davies, Geary County Sanitarian, stated she was present to answer any questions the Commission might have regarding the wastewater disposal situation. In response to questions, Ms. Davies stated current regulations allow two homes to connect to one system under certain conditions; provided all guidelines are met. Ms. Davies stated Geary County adopted sanitation regulations as early as 1974. Ms. Davies indicated the lagoon has not been inspected to determine whether it meets current design standards or if it is failing in any way. Ms. Davies stated there is a cost share program available through the Conservation District to assist homeowners to install new sewer systems. Ms. Davies also explained if the lagoon was made to serve all the homes and business, the design and approval would be the responsibility of KDHE and not the County.

In response to questions, Mr. Yearout stated there are four parcels recorded with the Register of Deeds: the two small tracts that front on Easy Jack's Road are owned by Jerry Welsh and Shawna Welsh; and, the two larger parcels are in the estate of Jack H. Welsh. Mr. Yearout pointed out the lot fronting on Milford Lake Road and the parcel located in the southeast corner of the area is owned by another entity. This was originally a filling station and restaurant and the lagoon for that business was located on the southeast parcel. There is a utility easement along the south property line to the lagoon.

Mr. Yearout elaborated on the rule exception as allowed by Article 6-106 of the Geary County Subdivision Regulations, for lot size, road frontage, interior roads, and other normal requirements for final platting. He explained the Governing Body may approve rule exceptions; provided, in their judgment such action will not violate the public interest, unnecessarily burden the County, or annul the intent and purpose of the Subdivision Regulations.

Discussion continued between Commissioners, staff, and audience to clarify and understand the past history on the Welsh property, KDHE requirements for public systems, conforming to current subdivision and sanitation codes, recorded documents, and why the existing lagoon on this property is not acceptable when there is a similar situation for a trailer court near Chapman.

There being no further discussion or questions, Chair Gustafson closed the public hearing.

Discussion among the Commissioners followed concerning whether to continue consideration of the plat or recommend the plat subject to conditions and let the governing body address those issues. There being no further questions or discussion, Chair Gustafson called for a motion.

Commissioner Mortensen moved that Case No. FP-06-01-13, the application of Kaw Valley Engineering, agent, for Jerry Welsh, administrator for Jack Welsh Estate, owner, seeking approval of the Final Plat of Easy Jack's Subdivision, located at the southeast corner at the intersection of Milford Lake Road and Easy Jack's Road, Geary County, Kansas, be recommended for approval by the Board of County Commissioners, subject to the Board of County Commissioners accepting the rule exceptions concerning the number of lots, size and configuration of the lots, and lack of internal road; and subject to meeting Sanitation Code requirements for all the homes and the business. Commissioner Mowry seconded the motion and it carried unanimously.

Item No. 2 – LS-HS-06-01-13 – Public Hearing to consider a Homestead Agricultural Lot Split.

Chair Gustafson opened the public hearing on the application of Verle Amthauer, owner, seeking a Homestead Agricultural Lot Split to create a lot of 12.2 acres accessible by a travel easement on property located at 2606 Carr Road, Junction City, Geary County, Kansas, and asked for the staff report.

Mr. Yearout stated this is the first land division request being considered under the amendment to the Subdivision Regulations completed earlier this year. Mr. Amthauer is the individual that wished to create a separate lot around an original homestead that did not meet the requirements of the Subdivision Regulations requiring frontage on an existing public road. That resulted in the text amendment creating the Homestead Agricultural Lot Split procedure. Mr. Yearout explained this provision accommodates divisions of agricultural lands for creation of a non-compliant lot surrounding an existing homestead that does not have direct frontage on an existing public road, and which will only be accessible by reason of an access easement. Mr. Yearout stated the staff report contains a synopsis of the amendment along with a copy of Resolution 03-25-2013 setting out the amendment language for reference.

Mr. Yearout stated the only issue with this request is that the proposed lot exceeds the 10-acre maximum lot size. The applicant has indicated the proposed lot property lines follow the natural topography and allows the other uses on the property to remain intact. Mr. Yearout stated the Subdivision Regulations provide for a "rule exception", which authorizes the governing body to approve an exception to the standards when specific conditions warrant.

Mr. Yearout stated all other requirements are being met; separate on-site wastewater system, separate utility connections, survey shows travel and utility easements; and a Homestead Lot Split Agreement will be executed and recorded in accordance with the regulations.

Mr. Yearout concluded by stating that staff recommends approval of the application as submitted, subject to the Board of County Commissioners approving the rule exception for the larger lot; and, execution of an Agreement between Mr. Amthauer and Geary County, as outlined in the staff report.

There being no questions of staff, Chair Gustafson opened the hearing for public comment.

Verle Amthauer, 2606 Carr Road, stated he recently moved back to the farm. There are two homes on the property; one was rented to the tenant. Mr. Amthauer said the purpose of the lot split is because his daughter expressed an interest in moving back to the farm and they want to deed this portion to her. Mr. Amthauer stated he is familiar with the necessity of creating the permanent travel easement and has no problem with meeting the regulation requirements by executing an Agreement with the County.

In response to questions from the Commission, Mr. Amthauer stated the proposed area could be reduced; however, there were several reasons behind the property boundary lines as drawn. Renovation of the home will probably require a new septic system; the east property line is a natural drainage ditch with the idea of creating a pond in the future, and the "jog" on the west keeps current farm operations intact.

There being no further appearances or questions, Chair Gustafson called for a motion.

Commissioner Mortensen moved that Case No. LS-HS-06-01-13, the application of Verle Amthauer, owner, seeking a Homestead Agricultural Lot Split to create a lot of 12.2 acres accessible by a travel easement on property located at 2606 Carr Road, Junction City, Geary County, Kansas, be recommended for approval as presented, subject to the Board of County Commissioners accepting the rule exception for the lot size, and; subject to the execution of the Homestead Lot Split Agreement between Mr. Amthauer and Geary County, Kansas; for the reasons stated in the staff report and as stated at this public hearing. Commissioner Watson seconded the motion and it carried unanimously.

5. GENERAL DISCUSSION

Item No. 1 – Metropolitan Planning Organization Report

Mr. Yearout reported the Flint Hills MPO continues to organize. The Policy Board meeting earlier in this week concluded the adoption of the revised maps of the "urban boundary" for the MPO, and the Functional Classification Map for all the public streets within the MPO boundary. These both will be factors used in the preparation of the Transportation

Demand Model and the Transportation Improvement Plan. Staff will keep the MPC advised on all the work that occurs.

Item No. 2 – Comprehensive Plan Update Status

Mr. Yearout reported that the City approved and signed the contract with RDG Planning & Design, the consultant that will assist in the preparation of the update to the Comprehensive Plan. It is hoped the County will approve the contract soon.

It is hoped to have the “kick-off meeting” very soon. A copy of the schedule will be presented to the MPC so everyone can track the project. As previously noted, the MPC will play a very critical role in the development of the update and the item will be a topic for each MPC meeting.

Item No. 3 – Other Items

Mr. Yearout stated that City Commissioner Ryan’s position remains open and a replacement needs to be found. Mr. Yearout encouraged members to submit a name if they knew of anyone willing to serve on the Commission.

Mr. Yearout stated that Brandon Dibben has agreed to continue to serve and will be reappointed by the City Commission at its next meeting.

Mr. Yearout stated that election of officers would be on the July agenda.

7. ADJOURNMENT

There being no further business, Commissioner Mowry moved to adjourn. Commissioner Mortensen seconded the motion and it carried unanimously. Chair Gustafson declared the meeting adjourned at 8:15 p.m.

PASSED and APPROVED this _____ day of July, 2013.

Maureen Gustafson, Chair

ATTEST:

David L. Yearout, Secretary