

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

**MINUTES**

**November 14, 2013  
7:00 p.m.**

Members  
(Present)

Members  
(Absent)

Staff  
(Present)

Maureen Gustafson  
Mike Watson  
John Moyer  
Brandon Dibben  
Chuck Mowry  
Ken Mortensen

David Yearout  
Shari Lenhart

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

Chair Gustafson called the meeting to order at 7:00 p.m. and declared a quorum with all members present.

**2. APPROVAL OF MINUTES**

Commissioner Moyer moved to approve the minutes of the October 2013, meeting as written. Commissioner Dibben seconded the motion and it carried unanimously.

**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. Chair Gustafson noted the staff report indicates the need for another continuance and asked for staff comments.

Mr. Yearout reported the Junction City Commissioners did not reach a final decision at the October 15<sup>th</sup> or November 5<sup>th</sup> City Commission meetings. The matter is on the agenda for the November 18<sup>th</sup> meeting. Mr. Yearout reiterated; until adoption of the ordinance, staff recommends continuation of this case so the text amendments in the Zoning Regulations can be finalized based on the actual action by the City Commission.

Commissioner Mowry moved to continue case TA-01-01-13 until the December 2013, meeting. Commissioner Mortensen seconded the motion and it carried unanimously.

**Item No. 2 – GCCU-08-01-13 – Continuation of Public Hearing to consider a request for a Conditional Use Permit for a rock quarry in Geary County.**

Chair Gustafson reopened the public hearing on the application of Jim Didas, agent, on behalf of Scott Johnson, owner, seeking a Conditional Use Permit to reopen and operate a rock quarry on property

located on the east side of Munson Road between Rucker Road and K-244 Highway, Junction City, Geary County, Kansas, and asked for the staff report.

Mr. Yearout stated the MPC members received all the numerous documents submitted by the applicant in the agenda packet. Mr. Yearout stated the staff report addresses the information received and outlines the applicable sections of the Geary County Zoning Regulations, along with staff comments. Mr. Yearout stated he was foregoing review of each individual item. However, based on the information presented and the staff report assessment, staff is recommending denial of the Conditional Use Permit to reopen the abandoned rock quarry as requested by the applicant. The reasoning for that recommendation is contained within the staff report.

Mr. Yearout pointed out a licensed engineer did not prepare the submitted drawings, which contain design elements. In addition, the letters prepared by an engineer submitted in response to the questions on the Munson Road culvert and the traffic impacts to Munson Road and all other haul roads did not appear to address the questions submitted by the MPC and the County Public Works Department. Mr. Yearout stated, along with these two major issues and all the other points made in the staff report, staff believes the applicant failed to submit adequate proof the Conditional Use Permit should be approved.

Commissioner Mortensen asked whether quarrying, mining and rock crushing would include the recycling of concrete and asphalt, as indicated in the Kansas Register notice for this property.

Mr. Yearout explained “quarrying” is usually an open pit extraction, and “mining” refers to underground extraction methods. Mr. Yearout stated the information received by staff did not include any reference to using recycled concrete and asphalt to mix with crushed rock. Mr. Yearout stated the application for this Conditional Use Permit does not include the authorization to haul other material to this location to be further “processed” or “crushed” with rock extracted from this site. If the intent is to include that activity, the original application should have identified that use. It is possible to amend the request to include that activity if the MPC or the governing body so desires.

There being no further questions of staff, Chair Gustafson opened the meeting for public comment. Chair Gustafson announced, due to the vast number of people present, anyone wishing to speak to this application to please not repeat previous statements.

**Craig Paxton, 3525 N. Munson Road:** stated the surrounding landowners had selected him to be the spoke’s person for the neighborhood. Mr. Paxton stated the surrounding property owners are in opposition to the re-opening of the quarry and read a prepared statement reflecting their concerns, a copy of which was presented to the Commissioners and staff.

In summary, the prepared statement read by Mr. Paxton reiterated the property owners major concern is potential damage to the surrounding wells. They do not believe the applicant intends to damage the wells; but there is no evidence that damage is guaranteed not to occur. Other concerns deal with the decrease in property and home values due to the proximity of the quarry, the impact from blasting to the area, and the overall loss of enjoyment of the property resulting in a lowering of the quality of life for the residents of the area. Mr. Paxton concluded by urging the Commission to decide against the re-opening of the rock quarry based on the reasons set forth in the letter.

**Mr. Vern Jarboe, Topeka, Kansas:** stated he is an attorney from Topeka, and present on behalf of the applicant, Mr. Didas. Mr. Jarboe stated, after reading the minutes, some of the content is troublesome to him. The fact whether the neighborhood likes it or not, cannot be the basis for the Planning Commission to deny Mr. Didas’ request. That is what is known as the NIMBY, or “not in my back yard”, argument, and it would be in violation of Kansas law to base a decision on that factor. Mr. Jarboe stated this operation would provide a needed material in the crushed rock and create jobs for the community.

Mr. Jarboe was also concerned with a statement from the MPC the applicant should withdraw the application. He stated he felt this was inappropriate and should not have been said. Whether an application is continued or withdrawn is up to the applicant.

Mr. Jarboe stated he was troubled with the Staff Report alleging the engineering drawings are illegal, Mr. Didas has lied about the full intent of the proposed quarry operation, and state laws are being violated. Mr. Jarboe stated he has been a lawyer for 30 years and, in his opinion, there has been nothing violated by the applicant. Mr. Jarboe argued the information submitted by Mr. Didas meets the requirements of the County Regulations and is responsive to staff requests. The requirement for the engineering drawings to be signed by a licensed engineer is not required at this point.

Mr. Jarboe stated he did not have any argument against the 21 items listed in the Staff Recommendation to be addressed within a specific Conditional Use Permit written agreement. In his estimation, he stated these are normal and typical concerns addressed within the issuance of a Conditional Use Permit for a quarry operation.

Mr. Jarboe stated the request for the applicant to provide borehole tests to determine the quality and quantity of the rock is unwarranted. Mr. Didas would not request permission to quarry this area if he did not believe the material is satisfactory. In addition, the request for a survey is unnecessary because the quarry area is far from any other property lines. The operation will not encroach on adjoining properties; therefore, the concern about ground slippage is not an issue.

Mr. Jarboe concluded it is incorrect in stating Mr. Didas has not provided all the requested information as alleged in the staff report. Mr. Jarboe asked the Commission to recommend approval of the requested Conditional Use Permit to reopen the rock quarry based on the information submitted by his client.

**Troy Peterson, 4914 Hwy K-244,** stated he is an employee of Range and Civil Construction, the applicant; he is the person that prepared all the design drawings submitted, and he did not believe there is a need or requirement for 'stamped' engineering drawings until this project is approved. Mr. Peterson used the comparison of consideration of a preliminary plat, which does not get into detailed engineering design, until the preliminary plat has been approved and the final plat is submitted. Mr. Peterson argued the presented design drawings meet the application requirements for review.

Mr. Peterson stated the requirement for a land survey is unnecessary due to the fact all of the project land is well inside the property owned by Mr. Johnson. In response to the topographical maps, Mr. Peterson indicated there is no law in Kansas that requires 'stamped' drawings. The maps provided are a topographical survey taken from the State of Kansas and should be sufficient for this application. He stated the topographical information is taken from the LIDAR information from the State.

Mr. Peterson stated Kaw Valley Engineering's (KVE) Traffic Engineer had presented a letter concerning the traffic impacts from the quarry, which he believes addresses all issues identified by staff. Mr. Peterson stated the KVE letter also answered the request for an engineering assessment on whether or not the culvert on Munson road would handle the heavy truck traffic. Mr. Peterson stated the KVE letter concluded the culvert is able to handle increased heavy truck traffic. Mr. Peterson stated the vehicles would not be overweight.

Mr. Peterson stated he met with Leon Osbourn (KVE) in regard to potential flood plain issues. Mr. Peterson stated the flood plain maps were reviewed and Munson Road has never been topped by the 100-year flood. Mr. Peterson stated he felt it was Mr. Osbourn's opinion the flood plain was not an issue for the quarry.

Mr. Peterson addressed the issue of the quality/quantity of the stone and the overburden. Mr. Peterson stated that is why they are seeking approval of the Conditional Use Permit first. Mr. Peterson stated there is no need to go to the added expense for core drillings to determine the quality of limestone until the approval is given. Once approval to quarry the area has been granted, the applicant can begin to

remove the stone and determine whether a good decision was made to extract rock from this location. Mr. Peterson stated the staff comment on the "overburden" is not relevant because that will be a business decision of the applicant once approval has been granted. If it is determined the rock is not good, the applicant will not have expended substantial funds on an unnecessary core test. Mr. Peterson stated RACC should not have to prove this is super special rock, and then be denied a quarry permit.

Mr. Peterson concluded by asking the Commission to grant the Conditional Use Permit to reopen the rock quarry.

Commissioner Watson questioned Mr. Peterson whether his interpretation of the KVE traffic report was that heavy truck traffic would not have an impact on Munson Road. Mr. Peterson stated "yes".

Commissioner Watson stated, in his opinion, there is bound to be an effect on the road over time and the KVE report was only indicating the road could handle the traffic. Mr. Peterson responded they were explaining the type of impact would be more traffic and that impact will be low.

Commissioner Watson stated his concern was with the weight of the truck traffic and the impact that will have on the roads, along with the number of loads every day. Mr. Peterson stated the culvert study indicated no problem would occur from the truck traffic. The county is required to maintain the roads and the operation would not crush the road rock into dust. Mr. Peterson indicated the quarry would not generate much truck traffic, probably no more than a truck every six minutes or so and most people would not notice that small amount of traffic. Commissioner Watson reiterated his concern was not with the volume of truck traffic, but with the weight of the trucks; however, that many trucks would compound the issue.

Commissioner Watson asked about the statement in the materials that the applicant will take care of the driveways and the road maintenance is up to the county. Mr. Peterson responded it is the desire of the applicant to be a good neighbor, not a desire to go out and destroy the road, but the road maintenance responsibility rests with the County.

Commissioner Moyer asked about the proposed recycling of asphalt and concrete and why the information was not previously provided. Mr. Peterson deferred to Mr. Didas.

**Jim Didas, 2823 Rucker Road,** stated his application to the State did include recycling of asphalt and concrete, because he felt recycling is a good thing. Mr. Didas stated he did not put it into this application because the same equipment is used for crushing. Mr. Didas stated when the application to the State is submitted, it is very critical all the information be included.

Chair Gustafson asked if the recycling is where someone sells the asphalt or concrete to you. Mr. Didas stated they intend to take the asphalt and concrete for free and recycle the product to sell to someone else.

Chair Gustafson questioned Mr. Didas about his intention to do blasting. Chair Gustafson stated that originally Mr. Didas said blasting would not be done and now the information says it will occur. Chair Gustafson asked, "Is it your intent blasting is going to have to happen?"

Mr. Didas stated they had to take a stance, comply with State and Federal laws. Mr. Didas stated he didn't feel blasting is necessary, but he doesn't know because the rock has not been evaluated yet. Mr. Didas stated if hard rock is discovered, blasting is a normal process of quarrying rock.

**Scott Johnson, 702 Stone Ridge Drive,** stated he is the landowner and he supported this request because it would create jobs. Whether it is only two jobs, or five or ten, is not important, especially to someone who does not have a job. Mr. Johnson went on to claim Junction City does not want jobs; this quarry would allow people to buy rock from someone who lives in Geary County; and if every issue was denied because of NIMBY concerns there would be no cell towers, Wal-Mart would not be here, and lots

of other development would not occur. Mr. Johnson stated there is a lot of wildlife that rely on the clean water in the creek on his property; but once the creek gets across K-244 Highway it is full of herbicides, pesticides from the run-off of farmed ground. Mr. Johnson objected to the big cut on the south side of K-244 Highway where they are allowed to haul dirt in and out without any apparent permits. Mr. Johnson concluded by saying he simply likes to create jobs and he is not trying to be the bad guy. He stated he was frustrated with the way this case has been handled, and he is not happy about the manure and barnyard sewage that runs on to his property.

Commissioner Moyer stated the hearing is to talk about the rock quarry, not other issues.

Mr. Johnson said Commissioner Mowry told him this case would be decided on emotions, which is not the way this is to be decided.

Chair Gustafson responded she did not believe anyone on the Commission has made up their minds and the Commission would decide based upon the facts presented only.

Commissioner Mortensen stated, among other issues, he was concerned about the amount of noise generated by a rock crushing operation and asked how noisy it might be, how far the sound would travel and if workers had to wear hearing protection. Mr. Didas stated the operation is noisy, but they must comply with all the requirements of the State and Federal laws.

Mr. Peterson indicated there are limits of noise exposure for the employees, but the site is far away from surrounding properties and there are sound screens in place on the property due to the heavy tree growth that will not be disturbed.

Chair Gustafson asked about the distance to the nearest home. Mr. Peterson said most of the trees would stay because they make the best sound and dust barrier. Mr. Peterson stated no one can see any homes from the quarry and no one can see the quarry area from other properties. Mr. Peterson stated the distance would permit the sound issues to diminish.

**Craig Paxton, 3525 Munson Road,** stated Range and Civil Construction had heavy equipment at the quarry site recently and the noise from the backup alarm and bucket scraping could easily be heard at this property. Mr. Paxton stated he was sure quarry equipment and crushers would be much louder and more continuous. Mr. Paxton reiterated the proposed quarry area is completely surrounded by homes that are less than 2,000 feet away.

**Bob White, 3129 North Munson Road,** stated he is less than 1,000 feet from the rock quarry and the creek borders his property. Mr. White stated there has been equipment working in the quarry and the backup alarms are constantly heard. Mr. White stated him and other property owners pay to have dust control chemicals put on Munson Road to help control the dust problem; and, allowing 40-ton trucks making numerous trips will break down that protectant within a very short time. Mr. White concluded by stating his family chose this area for its rural setting. Mr. White urged the Commission to deny the request.

**Tom Weigand** stated he is the Economic Development Director for Geary County. The Economic Development Commission (EDC) met with Mr. Didas on several occasions to discuss this proposed quarry. Mr. Weigand stated he visited the site and understands the neighbors concerns. The EDC supports granting the Conditional Use Permit as long as it meets the County and State rules and regulations. Mr. Weigand handed out information from the Oklahoma Department of Transportation indicating there is a great deal of confusion how blasting is done. The report indicated blasting does not destroy an aquifer. Mr. Weigand concluded by stating the EDC is supportive of the request, it does not believe the neighborhood will be damaged by the quarry, and the quarry will create jobs for the community.

**Leo Henry, 3215 Walla Walla Road,** stated his concern is the added heavy truck traffic. The posted speed limit is 45 mph; however, traffic has a tendency to travel faster. In addition, school buses run this route twice a day. He questioned the wisdom of permitting this added truck traffic with the school buses.

**Ron Johnson, 3010 Walla Walla Road,** stated he has lived at this location for 20 years and never had any water issues until blasting started in the Olivia Farms area. Mr. Johnson stated the water got cloudy and it took several weeks for it to clear. Mr. Johnson also raised concerns about additional traffic, inclement weather causing traffic to travel the middle of the road, the need for additional funds for road maintenance, the fact there is no rural water district available if wells are destroyed, some families currently pay for chemical road additives for dust control, and “good neighbors” do not take water away from other people.

**Richard Love, 2507 Munson Road,** stated he just purchased his home in the area this past August and was not aware of the pending quarry. Mr. Love stated if he had known there was a rock quarry in the area, he would not have moved to this location. He asked the commission to take into consideration the detrimental effects a rock quarry would have on the surrounding homes and the quality of family life.

Commissioner Dibben asked Dennis Cox, Geary County Public Works Director, to address the road issues that have been discussed.

Mr. Cox stated he has been the Geary County Public Works Director for the past 23 years. Mr. Cox stated Munson Road is considered as a secondary road; therefore, has lower priority than some other county roads as far as maintenance and upkeep is considered. Mr. Cox indicated the County Commissioners have expressed concerns about no designated haul routes being identified. Mr. Cox stated construction-type traffic from an operation like a quarry is more than what the one Munson Road would typically handle; it is just not designed for that type of traffic. What the impact will be is unknown until more is known on the particulars of traffic to be generated by the proposed use. Mr. Cox stated another concern is the topography along Munson Road in this area is very hilly and that is the reason for the 45 mph, not because of the amount of traffic.

Mr. Cox stated he believed there certainly would be dust issues. The State of Kansas has regulations in place for the quarry operation, but Geary County does not have a dust policy. Mr. Cox stated it would be difficult to estimate a cost of additional maintenance until the impact is determined, but he was sure more maintenance would be required.

Mr. Cox stated the culvert on Munson Road is a corrugated tube. The request was for an actual load weight limit, which has not been provided. This is not a bridge; therefore, a load weight limit is not posted. Mr. Cox stated the commercial traffic certainly would have an impact on the roads and the culvert.

Commissioner Mortensen asked if the culvert would handle the weight. Mr. Cox stated he knows Chad McCullough, the licensed engineer from KVE that provided the letter, and he would take Mr. McCullough’s assessment that the culvert most likely would be able to handle increased heavy truck traffic as accurate. However, the County asked for a weight load analysis, which was not provided.

Mr. Cox indicated he would prefer the truck traffic go north to K-244 Highway; however, drivers making a delivery to individual project sites will normally take the path of least resistance. Geary County is fortunate in that all other quarries in the county have direct access from the quarry to good State Highways or major, paved County roads.

**Bill Enquist, 2217 Cinder Court,** stated he lives in the Olivia Farms Subdivision and Rucker Road at US-77 Highway has been patched in the past by the City, but already has potholes. He stated he couldn’t imagine how much more the road will deteriorate with 40-ton trucks using it.

Mr. Yearout explained the City is fully aware of this situation; however, this intersection is scheduled for complete reconstruction as part of the KDOT US-77 improvement project beginning in 2014.

In response to questions from the Commission, Mr. Didas stated the hours of operation are normally 7:00 a.m. to 5:00 p.m. five days a week from April to November. Mr. Didas stated the amount of water usage to control dust is dependent upon "Mother Nature" and amount of truck traffic in and out of the quarry site.

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

Commissioner Moyer commented this case has evolved from the applicant just wanting to "quarry" exposed rock, to possible blasting of rock, and then recycling of concrete and asphalt. Commissioner Moyer indicated there have been a lot of critical comments about staff and the Commissioners wanting details. Commissioner Moyer stated it is critical to the Commission's decision to have available all the pertinent information on a case prior to making a recommendation to the appropriate Governing Body.

Commissioner Mortensen stated, in his opinion, the quality of rock is not relevant; and the dust is a pain but not necessarily an issue. Commissioner Mortensen stated he used to live on a gravel road and he knows dust problems can exist during dry times. Commissioner Mortensen stated he had concerns about any blasting; particularly concerning its potential impact on the water wells. He stated water is critical for everyone living there and the endangerment to the water supply is serious. Commissioner Mortensen state the County should be reimbursed for additional road maintenance; the noise generated by the construction machinery on the quarry site would be a concern; and he was especially concerned with how all this would affect the quality of life for the residents. Commissioner Mortensen concluded by saying even though there may have been a quarry at this location many years ago, conditions have changed significantly and, as such, he is not convinced this is a proper location for a quarry operation today.

Chair Gustafson stated she has reviewed all the documents presented since the first hearing in August, which are numerous. Chair Gustafson pointed out to Mr. Johnson it is difficult to leave emotion behind; but, the Commission's recommendation will be based on facts and; in addition, she is not opposed to creating jobs. Chair Gustafson stated she lives in the country and the dust issue is not a concerning factor for her. Chair Gustafson stated her concerns include the fact that the possibility of blasting and recycling were not initially presented; the noise level from several pieces of equipment are a concern; the loss of wildlife in the area due to a quarry operation; previous blasting during the Olivia Farms development did affect Mr. Johnson's water well; and the potential negative effect blasting might have on the surrounding wells. Chair Gustafson stated it is her job to consider all the facts.

Commissioner Mowry stated he would agree with Chair Gustafson's comments. Commissioner Mowry indicated another concern is how long the quarry would be active, six months or several years, and the safety factor for school buses meeting the large trucks.

Commissioner Moyer stated that in Morris County the drivers of rock trucks drive hard because they want to get as many loads per day as possible; that's their paycheck. Commissioner Moyer stated he has been in agriculture all his life and raises livestock. It would not be appropriate to put in a feedlot in close proximity to 30 houses. Commissioner Moyer indicated, based on the information, he did not believe this is an appropriate location for a rock quarry; there are other available areas where the negative aspects would have less impact on the neighborhood.

Commissioner Watson stated he personally felt the Commissioners have tried to keep as much of the emotions out of this case as possible. Commissioner Watson indicated he understands the emotions of the people living the area; and also understands Mr. Johnson and Mr. Didas trying to bring in jobs. Commissioner Watson stated he had concerns about the noise factor, especially in a residential-type area; the challenges dealing with the dusty roads; the heavy truck traffic impact on the County roads could create additional costs to county taxpayers; and a real concern about blasting and any affect that might have on the water wells, which is a major concern and a very emotional issue for the neighbors. In particular, Commissioner Watson referred to the information provided by Mr. Didas for the November

meeting on blasting and the potential impacts on wells, noting every report indicated the possibility did exist blasting “could” affect the wells. The applicant’s own documentation notes blasting might cause problems with the wells. Commissioner Watson concluded by stating he would like to see more jobs in this community; however, he did not believe this is the proper location for the quarry.

Commissioner Dibben stated he felt the applicant should have talked to all the neighbors in detail regarding the proposal before commencing in order to determine if there were any supporters of the project, rather than facing a room full of neighbors in opposition. Commissioner Dibben stated his concerns include those mentioned by the other Commissioners dealing with the affect blasting could have on the water wells and the other issues that will significantly impact the neighborhood. Commissioner Dibben rhetorically asked whether the applicant would provide water to the neighbors if the blasting caused problems with the existing water wells; stating the applicant has not answered that question.

Commissioner Mowry stated rather than use the word “emotion”; he should have been talking about the quality of life. The proposed rock quarry operation will have detrimental effects for the neighborhood.

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

Commissioner Mortensen moved Case No. GCCU-08-01-13, the request of Jim Didas, agent, on behalf of Scott Johnson, owner, seeking a Conditional Use Permit to reopen and operate a rock quarry on property located on the east side of Munson Road between Rucker Road and K-244 Highway, Junction City, Geary County, Kansas, be recommended for denial by the Board of County Commissioners of Geary County, Kansas, based on the reasoning given in the staff report and as presented at this public hearing. Commissioner Moyer seconded the motion and it passed unanimously.

Mr. Yearout informed the audience if they chose to submit a protest petition, they may; however, State laws governing quarries prohibits valid petitions from requiring a super majority of the Governing Body.

#### 4. NEW BUSINESS

##### **Item No. 1 – SUP-11-01-13 – Public Hearing to consider a request for a Special Use Permit to allow off-site storage of vehicles.**

Chair Gustafson opened the public hearing on the application of Sergio Torres, owner, requesting a Special Use Permit to allow off-site storage of vehicles on property zoned “RM” Multiple Family Residential District at 220 and 224 East 2<sup>nd</sup> Street, Junction City, Kansas, and asked for the staff report.

Mr. Yearout stated Mr. Torres sought to rezone these properties in August to a commercial classification; the Governing Body ultimately denied that request. As part of the discussion by the Commission, the MPC initiated a text amendment to the Zoning Regulations to allow consideration of off-site parking facilities for auto repair businesses by means of a Special Use Permit. The text amendment was approved and this application was processed under the new provisions.

Mr. Yearout stated Mr. Torres is seeking a Special Use Permit to use the vacant lots on 2<sup>nd</sup> Street for parking and/or storage of customer vehicles from his auto repair business at 217 North Franklin. Mr. Yearout pointed out, if granted, the Special Use Permit does not change the zoning classification of “RM” Multiple Family Residential, but will authorize the additional use of providing expanded parking and/or storage of the vehicles, subject to conditions that may be placed on the permit. Mr. Yearout stated staff supports this request because it will get the vehicles off the street, which has become an issue with the neighborhood and the police.

Mr. Yearout stated the Zoning Regulations provide guidance as to what should be addressed in a request for a Special Use Permit and what should be found in order to make an appropriate recommendation. Those guidelines, along with staff comments, are set out in detail in the staff report.

Mr. Yearout stated staff is recommending approval of the Special Use Permit subject to the installation of a 6-foot privacy fence; the surfacing of the lot with asphalt or concrete, unless the Governing Body permits other surfacing materials; limiting vehicles allowed to those of the clients of the business only; no parking of client vehicles would be permitted on Franklin Street, East 2<sup>nd</sup> Street or East 3<sup>rd</sup> Street; and if the applicant proposes any security lighting its installation be approved by staff.

Commissioner Moyer asked if the applicant proposed any signage. Mr. Yearout indicated the application did not show any.

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

**Sergio Torres**, applicant, stated he is requesting the Special Use Permit to park vehicles, which have been repaired, awaiting repairs or involved in an insurance claim. Mr. Torres said they are in the process of installing the required 6-foot privacy fence. Mr. Torres stated he has no intention of making this into a salvage yard. Mr. Torres presented pictures of his business and the surrounding neighborhood taken earlier today. Mr. Torres stated he believes his property is better maintained than most of the properties in the neighborhood.

In response to questions from the Commission, Mr. Torres stated he has no intentions to place any signs but plans to put lights on a couple of existing poles. Mr. Torres also stated he plans to do the same type of ground surface as Auto Craft, which were millings approved by the Governing Body. Mr. Torres indicated most of the time the alley gate will be used; however, it's more economical to install both gates now. Mr. Torres stated the average storage time for a vehicle is 20 to 30 days.

**Gary Olds, 3308 Frontier, Manhattan**, stated he owns the apartment building across 2<sup>nd</sup> Street from this location. Mr. Olds asked how violations are enforced and what would constitute a violation. Mr. Olds raised the following concerns and questions; there is an open space at the bottom of the privacy fence, making the height of the fence at approximately 6' 6"; why the need for gates off the alley and 2<sup>nd</sup> Street; whether access could be restricted off of 2<sup>nd</sup> Street; the direction and intensity of any proposed lighting; whether any regulations exist to keep the privacy fence maintained; and he believed any signage which said "keep out" or similar wording would be an attractive nuisance to neighborhood vandals.

Mr. Yearout responded a "salvage operation" would be a violation; if a violation were alleged, staff would investigate to determine if a violation existed, notify the owner by letter of the violation and to abate the violation, and, if not corrected, turn the matter over to the City Prosecutor for prosecution.

Mr. Torres stated final grading of the lot will close the gap at the bottom of the fence; thereby, making the fence 6-foot.

Mr. Yearout indicated ingress/egress could be restricted from 2<sup>nd</sup> Street as a stipulation in the Special Use Permit provisions, same for the maintenance and signage. Mr. Yearout stated staff has listed the lighting issue as one of the conditions of the Permit.

There being no further appearances or comments, Chair Gustafson closed the public hearing.

Discussion ensued between the Commission and staff on the merits of the fence height issue; ingress/egress to the lot from the alley and 2<sup>nd</sup> Street; type of surfacing materials that might be permitted; restricting the use of the vacant lots for parking/storage of client vehicles and not to be a used car lot; signage control needs; and lighting standards.

Following discussion, it was the consensus of the Commission to add the following conditions as part of the Special Use Permit: "no business signage"; fence perimeter graded so there is no space at the base of the fence; and ingress/egress driveways be constructed to City Code. It was noted the issue of lighting is addressed as a condition in the Staff Report.

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

Commissioner Watson moved Case No. SUP-11-01-13, concerning the request of Sergio Torres, owner, requesting a Special Use Permit to allow off-site vehicle storage on property zoned "RM" Multiple Family Residential District at 220 and 224 East 2<sup>nd</sup> Street, be recommended for approval, subject to the conditions stated in the staff recommendation and adding no business signs be permitted, ingress and egress driveways be constructed to City Code, and clarifying no open space between the ground and bottom of the fence be allowed; based on the reasoning stated in the staff report and as presented at this public hearing. Commissioner Moyer seconded the motion and it passed unanimously.

**BOARD OF ZONING APPEALS ~ Recess as the Metropolitan Planning Commission and Convene as the Board of Zoning Appeals.**

Chair Gustafson declared the Metropolitan Planning Commission recessed, and convened as the Board of Zoning Appeals.

**5. OLD BUSINESS - None**

**6. NEW BUSINESS**

**Item No. 1 – BZAV-11-01-13 – Public Hearing to consider a variance from the Junction City Zoning Regulations.**

Chair Gustafson noted for the record her place of business is across the street from Penwell-Gabel; however, this will not pose a conflict of interest in her decision and she would participate in this case.

Chair Gustafson opened the public hearing on the application of Vic Davis, agent, on behalf of Heartland Management Group, owner, also known as Penwell-Gabel Funeral Home, requesting a variance from the minimum off-street parking requirements in the "CSR" Service Commercial Restricted District for property located at 203 North Washington, Junction City, Kansas, and asked for the staff report.

Mr. Yearout stated the City was contacted earlier in the year about an addition of a crematory at this location. Mr. Yearout verified the crematory use was allowed to the applicant; however, new construction could impact the number of off-street parking spaces required. Mr. Yearout stated proposed development plans were submitted in October, along with a request for a variance from the required number of off-street parking spaces. Mr. Yearout indicated after review of the proposal and existing conditions, staff determined the existing operation does not come close to providing the number of spaces required according to the standards of the Zoning Regulations. Mr. Yearout did indicate, as stated in the Staff Report, the proposed crematory addition would result in the loss of 3 existing parking spaces. Mr. Yearout stated the applicant owns the vacant lot to the east, which could potentially be developed into a parking lot.

Mr. Yearout stated this request is within the purview of the Board of Zoning Appeals as specified in the Zoning Regulations. Mr. Yearout briefly reviewed the standards and guideline criteria, set out in detail in the staff report, used as a basis for a variance approval and in reaching conclusions.

Mr. Yearout concluded by stating staff is recommending approval of the variance request to reduce the number of off-street parking spaces required as requested; with the suggestion the applicant expand the off-street parking into the existing vacant lot to the east upon conclusion of construction of the crematory.

Mr. Yearout stated a couple of calls were received from notified property owners; all with the same concerns of vehicles parking on their property during times of funeral services with large crowds; however, none were opposed to the crematory expansion.

**Vic Davis** stated he was an attorney with the Weary Davis law firm and present on behalf of the applicant. Mr. Davis introduced Mr. Ren Newcomer, President of Heartland Management Group; Mr. Darin Miller, Vice President of Heartland Management Group; and Mr. Sam Steiner, local Funeral Director. Mr. Davis stated the proposed crematory would eliminate 2 parking spaces. The trash receptacle will be in a fenced enclosure to match the fence on the adjoining property and will not occupy a parking space. Mr. Davis stated the vacant lot acts as a barrier between the residential area and the funeral home; also, this is only a 46-foot wide lot and will not provide a lot of additional parking. Mr. Davis felt this lot serves the neighborhood better as a “green” area. The existing fence was constructed to prevent vehicle lights from shining onto the residential homes.

**Ren Newcomer, Topeka**, stated his great-grandfather started this company back in 1893. Mr. Newcomer stated cremation services are increasing about 1% per year and approaching about 50% of all services in Kansas. Mr. Newcomer explained there are more people during the visitation than the funeral services, because most services are held at the church. Mr. Newcomer state making the vacant lot into a parking area would add very few additional parking spaces and would not be reasonable until other land is acquired. Mr. Newcomer stated they would like to retain the lot as a “green” area until it makes more sense to expand in the future.

Mr. Newcomer stated the closest crematory is in Topeka, and that facility supports the Junction City facility, the Manhattan facility, as well as other funeral homes in the Topeka area. Mr. Newcomer explained they prefer not to outsource this needed service to another location and believe this will be a positive addition to the community.

In response to questions from the Commission, Mr. Newcomer stated there is very little noise; no smell whatsoever; very strict EPA guidelines for crematories; and there is definitely a need for a crematory in this area.

Commissioner Watson commented he would prefer to see the vacant lot to the east remain as a “green” area rather than a parking lot. Several Commissioners agreed.

There being no further appearances, questions, or comments. Chair Gustafson closed the public hearing and called for a motion.

Commissioner Moyer moved Case No. BZAV-11-01-13, the request of Vic Davis, agent, on behalf of Heartland Management Group, owner, also known as Penwell-Gabel Funeral Home, requesting a variance from the minimum off-street parking requirements in the “CSR” Service Commercial Restricted District for property located at 203 North Washington, Junction City, Kansas, be so ordered by the Board of Zoning Appeals, thereby allowing the number of off-street parking spaces provided to 22 spaces or the number actually provided onsite, based upon the reasoning stated in the staff report and as heard at this public hearing. The motion also included acknowledgement of retaining the vacant lot to the east as “green” space until other land is acquired for additional parking. Commissioner Mortensen seconded the motion and it carried unanimously.

**METROPOLITAN PLANNING COMMISSION** – Adjourn as the Board of Zoning Appeals and reconvene as the Metropolitan Planning Commission.

Chair Gustafson adjourned the Board of Zoning Appeals and declared the Metropolitan Planning Commission reconvened.

## **7. GENERAL DISCUSSION**

### **Item No. 1 – Metropolitan Planning Organization (MPO) Report**

Mr. Yearout reported the MPO continues to work on the initial documents required by the State and federal officials. Several documents have been placed within the office for review and a public meeting is

scheduled for December 9 at the Municipal Building to review the Public Participation Plan for the MPO. Staff plans to ask the Transportation Planner for the MPO to attend a future meeting to give a more detailed report on the work being done.

**Item No. 2 – Comprehensive Plan Update Status – RDG Consultants**

Marty Shukert and Amy Haase of RDG Planning & Design, the consultants working on the update to the Comprehensive Plan, were present for a brief presentation on the project. Ms. Haase gave a brief review of the following topics:

1. Review and confirmation of Development Principles
2. Junction City/Geary County Today: Existing Conditions
3. Discussion/Workshop: Opportunity Areas
4. Next Steps

Given the late hour, Ms. Haase suggested a meeting be held with the MPC to review the information submitted on the morning of December 11. This will then lead into the Design Workshop times the consultants will be present in the Municipal Building for interaction with the public on December 11 and 12. There will then be a presentation during the regular MPC meeting on December 12 to summarize the project status and begin to address the other steps to complete the project. The consensus was to meet at 9:00 a.m. on December 11 at the Municipal Building before the Design Workshops begin. Notices will be sent out to remind everyone of these meetings.

**8. ADJOURNMENT**

Commissioner Moyer moved to adjourn. Commissioner Watson seconded the motion and it carried unanimously. Chair Gustafson declared the meeting adjourned at 9:55 p.m.

**PASSED and APPROVED this \_\_\_\_\_ day of December 2013.**

\_\_\_\_\_  
Maureen Gustafson, Chair

**ATTEST:**

\_\_\_\_\_  
David L. Yearout, Secretary