

## MINUTES

### RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Monday, September 10, 2012  
7:30 pm

Courthouse Plaza East  
Commission Meeting Room  
115 North 4<sup>th</sup> Street

Members Present: Lorn Clement, Chairman  
Dr. Tom Taul, Vice-Chair  
Julie Henton  
John Wienck

Members Absent: Diane Hoobler

Staff Present: Monty Wedel – Director, Bob Isaac – Planner

Others Present: Marian Brandenburg, Robert Brandenburg, Kris Yaege, Monte Poersch,  
and Jerry Morehead.

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#### **OPEN PUBLIC COMMENTS**

None.

#### **CONSENT AGENDA**

The minutes of the July 9, 2012 meeting were presented and approved. The Report of Fees for the month of July 2012 (\$975.10) and August 2012 (\$425.50) were presented and approved.

#### **RILEY COUNTY BOARD OF ZONING APPEALS**

##### **Morehead – Conditional Use**

Lorn Clement opened the public hearing at the request of Jerry Morehead, petitioner and owner, for a conditional use in Zeandale Township, Section 19, Township 10 South, Range 9 East, in Riley County, Kansas, to permit a small-scale business (retail sale of motorcycles and small trailers) in the “AG” (Agricultural District) zoning district.

Bob Isaac presented the request. Mr. Isaac described the background, location and physical characteristics of the subject property. Mr. Isaac then reviewed the site plan for the proposed operation. Mr. Isaac referenced the list of conditions within the staff report and informed the Board that many of those conditions were a verbatim transcript of the use specific standards for a small-scale business found in Section 8 – Agricultural (AG) of the zoning regulations. Staff recommended approval of the request.

Mr. Isaac informed the Board that fellow Board member Diane Hoobler called staff and inquired if it were possible to link conditional use approval to the current owner/applicant and if it was possible to void the conditional use if there were a change of ownership.

Mr. Isaac explained that conditional uses “run with the land” because they are an objective authorization and that it doesn't matter who owns it, but only that the conditions are fulfilled. He said that there is nothing about a change in ownership that creates an objective change to the permit issues. He continued that the conditions listed within the Conditional Use Authorization would transfer to the new owner.

Tom Taul asked Mr. Isaac confirming that condition #8 prohibits the outdoor display of products.

Mr. Isaac affirmed and reminded the Board that most of the conditions listed are listed as requirements in the Use Specific Standards for small-scale businesses in the zoning regulations.

Chairman Clement inquired about condition #9 that states that the business is limited to one (1) structure devoted to business use and such structure shall not exceed 2,000 square feet.

Mr. Isaac clarified that approximately 75% of the existing 2010 sq. ft. building will be used for the small-scale business, while the remainder of the building will continue to be used to store agricultural products and farm implements; thus, the applicant would satisfy that condition.

Chairman Clement stated that there doesn't appear that there is room for expansion.

Mr. Isaac explained that as per the Use Specific Standards for a small-scale business in the zoning regulations, expansion won't be an option.

Chairman Clement asked the Board if there were any other questions for Mr. Isaac.

Chairman Clement asked Mr. Isaac if the Board needed to read through all of the conditions out loud.

Mr. Isaac said that it was not necessary but the Board could do so if they chose.

Chairman Clement asked the Applicant if he would like to speak.

Jerry Morehead, applicant, stated that he was a third generation farmer in the area and wished to keep the property looking the same. Mr. Morehead clarified the layout/conversion of the existing implement shed, quoting specific dimensions of the small-scale business. Mr. Morehead stated that he doesn't plan on expanding. Mr. Morehead explained the reason for wanting to establish his business at his property was due to the instability of the tenant arrangement at the current location of the business. He explained that he is a bonded dealer, which means he has to have a suitable location for the business that's approved by the County. Mr. Morehead stated that he will have an on-premise business sign that will meet the requirements of the proposed conditions and Use Specific Standards of the zoning regulations. Mr. Morehead stated that there will not be any noticeable difference in the look of the property since there will be very little change in the use of the building. Mr. Morehead stated that business inventory will not be washed or repaired on site, nor any on-site fuel storage.

Chairman Clement asked if there are any proponents within 1,000 feet.

There were none.

Chairman Clement asked if there are any opponents within 1,000 feet.

There were none.

Chairman Clement stated that he would entertain a motion to close the public hearing.

John Wienck moved to close the public hearing. Tom Taul seconded. Carried 4-0.

Tom Taul asked if the conditions, as currently written, would prohibit any mechanical repair work at the site. Dr. Taul stated that his concern was that he didn't want it to evolve into a mechanic shop at some point in the future due to the lack of a language in the condition use authorization that specifically addressed that possibility.

Mr. Isaac explained that a repair shop is a separate conditional use. Mr. Isaac said, however, one doesn't need a conditional use to work on their own vehicles or farm implements in their own garage. Mr. Isaac also emphasized that since there is no exterior display of products, business inventory would not "stack up" on the property.

Monty Wedel stated that the Board can fashion a condition as narrow as they wished.

Chairman Clement suggested inserting the word "retail" in front of "business" in condition #2, to address the issue.

Mr. Isaac stated that Chairman Clement's suggestion is helpful but wouldn't necessarily prohibit mechanical repair work from occurring on-site. Mr. Isaac suggested adding another condition with language that specifically addressed the concern.

Mr. Isaac noted that the condition would need to be written so that mechanical maintenance/repair work for personal vehicles would not be affected.

Chairman Clement suggested that in addition to the modification of condition #2, a possible modification to condition #11 could read, "nor shall there be repair work or mechanical work done on the motor vehicles that are on the premises."

Chairman Clement reviewed the proposed modifications to the conditions and asked the applicant if they were acceptable.

Jerry Morehead affirmed.

Mr. Isaac suggested the language: “Mechanical maintenance or repair of business inventory shall be prohibited on-site.”

Chairman Clement affirmed.

Tom Taul moved to approve Conditional Use Petition #12-12 with the following conditions, as modified, for reasons stated in the staff report.

1. The business, as described in the submitted business plan, shall be operated or maintained by the owner, or occupant of the land upon which the activity is being conducted.
2. The subject site, as legally described, shall be limited to one (1) small-scale retail business, not including any authorized home occupation.
3. Exterior storage areas shall be completely screened from view on all sides by natural or man-made materials determined to be appropriate by the Board of Zoning Appeals.
4. The business shall be limited to one (1) non-illuminated sign, not to exceed eight (8) square feet.
5. Adequate parking areas (including parking for persons with disabilities) shall be provided, as per Section 14 - Minimum Parking and Loading Requirements.
6. Parking areas shall be located and/or screened in a manner that mitigates visual impact on the rural character of the area.
7. All areas dedicated for parking shall consist of all-weather surfacing.
8. Exterior display of products shall be prohibited.
9. The subject site, as legally described, shall be limited to one (1) structure devoted to business use and such structure shall not exceed 2,000 square feet.
10. The site shall have access to a road of sufficient capacity and surface type to accommodate the traffic the use will generate.
11. The business shall not have more than four business motor vehicles (including heavy equipment) stored on the property. Business vehicle parking shall be located and/or screened in a manner that mitigates visual impact on the rural character of the area. No heavy equipment shall be stored outside. Semi-tractor/trailer transports or similar vehicles, driven or hauled by dealership, shall be prohibited.
12. Mechanical maintenance or repair of business inventory shall be prohibited on-site.
13. Prior to commencing operations, the applicant shall be responsible for petitioning the Kansas Department of Transportation (KDOT) to have a stop sign installed at the intersection of Morehead Road and Zeandale Road.

John Wienck seconded. Carried 4-0.

Tom Taul moved to adjourn as the Board of Zoning Appeals and reconvene as the Riley County Planning Board.

Julie Henton seconded. Carried 4-0

## **RILEY COUNTY PLANNING BOARD**

Chairman Clement introduced the first item of the General Agenda for the Riley County Planning Board.

### **Brandenburg Plat**

Bob Isaac presented the request. Mr. Isaac described the background, location and physical characteristics of the subject property. Mr. Isaac described that the replat was to combine two contiguous platted lots (Terra Heights Development) under the same ownership. Staff recommended approval of the request, as it was determined to meet the minimum requirements of the Riley County Zoning and Subdivision Regulations and the Sanitary Code.

Chairman Clement asked the Board if there were any questions for Mr. Isaac.

Chairman Clement asked the Applicant if she would like to speak.

Marian Brandenburg, applicant, stated she and her husband originally purchased Lot 21 with the home and eventually bought Lot 20. She said that they felt that, since they were able to pay off the debt on both properties, it would be a good time to consolidate them into a single lot.

Chairman Clement asked if there are any proponents within 1,000 feet.

There were none.

Chairman Clement asked if there are any opponents within 1,000 feet.

There were none.

Chairman Clement stated that he would entertain a motion to close the public hearing.

Tom Taul moved to close the public hearing. John Wienck seconded. Carried 4-0.

Dr. Taul commented that this was a “feel good” for everybody.

Robert Brandenburg mentioned that the reason they had to get the property re-surveyed was to confirm that the neighbor’s hot tub and patio was not encroaching upon the subject property.

Mr. Isaac agreed that there was some concern and that the survey confirmed there was no encroachment.

John Wienck moved to approve petition #12-13, for reasons listed in the staff report.

Tom Taul seconded. Motion carried 4-0.

Mr. Isaac announced that the Board of County Commissioners would hear the request on Thursday September 20, 2012, at 10:30 am, in the Commission chambers.

**Poersch Plat and Residential Use Designator**

Bob Isaac presented the request. Mr. Isaac described the background, location and physical characteristics of the subject property. Mr. Isaac described that the size and shape of the site was established by an Affidavit of Equitable Interest and is already recognized as a separate parcel by the Appraiser's Office. He explained that the site already has been issued a parcel ID number and that a deed is currently in escrow. Mr. Isaac explained that the applicant has been making payments for the property to the property owners for several years. Staff recommended approval of the request, as it was determined to meet the minimum requirements of the Riley County Zoning and Subdivision Regulations and the Sanitary Code.

Chairman Clement asked the Board if there were any questions for Mr. Isaac.

Chairman Clement asked the Applicant if she would like to speak.

Monte Poersch, applicant, stated that he has been in the process of purchasing the subject site from his sister and making payments for several years. He said that when he discovered that there were some things that they should have checked out initially regarding subdivision requirements, they decided to go forward with the petition.

Chairman Clement asked if there are any proponents within 1,000 feet.

There were none.

Chairman Clement asked if there are any opponents within 1,000 feet.

There were none.

Chairman Clement entertained a motion to close the public hearing.

Julie Henton moved to close the public hearing. Tom Taul seconded. Carried 4-0.

Dr. Taul moved to approve petitions #12-14 (plat) and #12-15 (Residential Use Designator – Extraneous Farmstead), for reasons listed in the staff report.

John Wienck seconded. Motion carried 4-0.

Mr. Isaac announced that the Board of County Commissioners would hear the request on Thursday September 20, 2012, at 10:40 am, in the Commission chambers.

## **WORK SESSION**

### **Review amendments proposed by the Billboard Advisory Group to SECTION 15 – SIGNS AND EXTERIOR LIGHTS of the Riley County Zoning Regulations**

Monty Wedel gave an update on the status of the amendments proposed by the Billboard Advisory Group to SECTION 15 – SIGNS AND EXTERIOR LIGHTS of the Riley County Zoning Regulations. He stated that due to time constraints, the notice of public hearing has already been published, as per instruction of the Manhattan Urban Area Planning Board. Mr. Wedel stated that the item would be going before both the RCPB and MUAPB in October. Mr. Wedel briefly reviewed the proposed changes to Section 15 and noted that a loophole was discovered. He described the loophole by stating that neither the current regulations, nor the proposed amendments, prevent simulated movement on advertising signs within industrial districts. Mr. Wedel stated that this is significant considering the county is promoting that billboards be allowed in industrial districts only. He said that the necessary correction will be presented to the Boards for their consideration.

Chairman Clement asked when the hearing was for the amendment.

Mr. Wedel stated that it would be the October meeting.

Julie Henton asked Mr. Wedel how signs were taxed.

Mr. Wedel said that he was not sure how they were taxed.

Bob Isaac recommended that the Appraiser's Office be contacted to answer that question.

Tom Taul asked if Capstone, located on Anderson Avenue, had a PUD.

Mr. Wedel affirmed. He added that Capstone has been advertising on Facebook as a church and meeting as a church. Mr. Wedel stated that legal counsel is investigating it.

Dr. Taul stated that he noticed that they (Capstone) will put up and take down a sign. He said that he didn't think a church was allowed in the PUD.

Mr. Wedel stated that it is under investigation at this time. He emphasized why it is so important to make sure the language in a PUD is carefully and thoroughly crafted. Mr. Wedel cautioned the Board that even in conditional uses, the language needs to be as specific as possible but still accommodates the petitioner.

John Wienck moved to adjourned. Tom Taul seconded. Carried 4-0.

The meeting was adjourned at 8:37 P.M.