

MINUTES

RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Monday, July 9, 2012
7:30 pm

Courthouse Plaza East
Commission Meeting Room
115 North 4th Street

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

Members Absent: None

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

Others Present: Michael Jones, Matt Eichman, Karen McKeeman, Michael McKeeman,
Travis Shilling, Justin Bayes, Robert Davies, Chris Eichman, Sandy &
Steve Enoch, and Mike Shilling

OPEN PUBLIC COMMENTS

None.

CONSENT AGENDA

The minutes of the June 11, 2012 meeting were presented and approved. The Report of Fees for the month of June 2012 (\$501.25) were presented and approved.

RILEY COUNTY BOARD OF ZONING APPEALS

Shilling – Conditional Use

Lorn Clement opened the public hearing at the request of Michael D. Shilling, petitioner, and Tri-Lake Dist. Inc., owner, for a conditional use in Manhattan Township, Section 30, Township 10 South, Range 8 East, in Riley County, Kansas to permit a sand and gravel extraction operation 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 distributed to the Board, the County Engineer’s written review of the traffic analysis submitted by SMH Consultants, which included observations and suggested requirements. Mr. Isaac referenced the list of conditions within the staff report and suggested some modifications to the list based on the County Engineer’s review of the traffic analysis. Staff recommended that the requested Conditional Use be approved with the modified conditions.

Chairman Clement asked if the requirements that were suggested in the County Engineer's review were incorporated into the list of conditions.

Mr. Isaac said that the County Engineer's review/requirements would be incorporated only by referencing the separate document, rather than listing specific requirements as conditions.

Chairman Clement asked for clarification if the two lists would be combined.

Monty Wedel suggested that every applicable bullet point in the County Engineer's review needs to be listed as a condition in the conditional use authorization.

Chairman Clement agreed that there needs to be one comprehensive list.

Mr. Isaac agreed to add the language from the County Engineer's review to the list of conditions. Mr. Isaac then reviewed the conditions as listed in the staff report.

Mr. Wedel asked if the Applicant received the County Engineer's review of the traffic analysis.

Mr. Isaac affirmed.

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

Mike Shilling stated that he purchased the property for the purpose requested as a long-term investment. Mr. Shilling described that his current operation involves hauling material from MCM's plant to his asphalt plant on McDowell Creek Road. He stated that the proposed operation will reduce truck traffic on the County road system by 50%.

Chairman Clement asked the Applicant if he had seen the letter from the County Engineer and asked if he was agreeable to those conditions/requirements listed within.

Mr. Shilling affirmed.

Diane Hoobler asked the Applicant for clarification regarding reclaiming Phase I of the extraction operation before moving onto Phase II.

Mr. Shilling clarified that the reason why there are two phases is that the site is too big to excavate in just one location. He explained how the operation would work geographically and how the site will be reclaimed as the excavation operation moves east from the river.

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

Sandy Enoch, stated that although she and her husband have not developed their property at 750 McDowell Creek Road yet, she has some concerns. She said that she was concerned about the quality of the water and how it will be used in the operation. She also stated concerns of

additional truck traffic on McDowell Creek and due to limited vision along McDowell Creek Road, how it will impact their existing driveway.

Michael McKeenan stated that his biggest concern was if there will continue to be enough of a buffer on the north boundary of the site and what will happen if we experience another flooding event like 1993.

Mr. Shilling agreed that the site distance around the slight curve on McDowell Creek Road was not ideal, but not too drastic. He clarified with the Enoch's that they haven't built their house yet. He also conceded that there will be trucks running by their driveway, but said there have always been trucks running along that stretch of road. Mr. Shilling explained how the excavation operation would not pollute the river or ground water and that the reclaimed area will be a clear water lake.

Chairman Clement pointed out MCM's plant on the site plan as to what to expect regarding how the reclaimed area will be separate from the river by utilizing an existing forested, riparian buffer.

Mr. Shilling concurred. He said that even during a major flood event, where all the land will be under water, the tree line will hold the bank in place. Mr. Shilling described the specific location of where the excavation activity will take place.

Mrs. Hoobler asked what the distance was between the subject site and Shilling's asphalt plant.

Mr. Shilling stated approximately one mile.

Tom Taul moved to close the public hearing. Diane Hoobler seconded. Carried 5-0.

Bob Isaac focused the Board's attention to the County Engineer's Memo/review of the traffic analysis and stated that the bullets that weren't referenced in the proposed conditions in the staff report should be added to the list as a condition, specifically bullets #4, #5, #6, #7, #8 and #10 of the traffic analysis.

Mr. Isaac incorporated the language of the County Engineer's Memo into the conditions.

Mrs. Hoobler, in response to the County Engineer's Memo/review of the traffic analysis, disagreed with the County Engineer's assessment that the speed limit would not need to be reduced and suggested lowering the speed limit to 40 mph, at least to the driveway of the subject site.

Mr. Wedel clarified that the County Engineer makes the determination on speed limits of roads and it's not something the Board should try to dictate as part of this request.

Tom Taul commended Mr. Shilling on his willingness to go through the rigors of the process the correct way for the betterment of the community. He stated that by removing the truck traffic

through downtown Manhattan is a win-win situation for everyone. He said that it was a good project and with the right conditions listed, the Board ought to move forward.

Mrs. Hoobler also commended Shilling for the project.

Mr. Wedel questioned the suggestion in the County Engineer's Memo/review of the traffic analysis regarding requiring Shilling to be responsible for repairing road surface (McDowell Creek Road) due to turning movements into the asphalt plant. He said the asphalt plant is not part of this request and should not be subject to a condition.

Chairman Clement agreed.

John Wienck also agreed to keep the two separate.

Tom Taul moved to approve Conditional Use Petition #12-11 with the following conditions, for reasons stated in the staff report.

1. This conditional use authorization shall apply to the entire ±76.6-acre tract of land, as legally described herein.
2. Hours of operation shall be limited to daylight hours.
3. Prior to commencing excavation operations, the Applicant must provide documentation to the Planning & Development Department demonstrating that a state mining license and the registration of a new site have been approved by the Kansas Department of Agriculture - Division of Conservation (DOC). The Applicant shall also submit a copy of subsequent license and registration annual renewals.
4. Prior to commencing excavation operations, the Applicant must submit a copy of the Reclamation Plan, as approved by the Kansas Department of Agriculture - Division of Conservation (DOC), to the Riley County Board of Zoning Appeals (see attached).
5. Prior to commencing excavation operations, the Applicant must provide documentation to the Planning & Development Department demonstrating that the minimum requirements of the Kansas Department of Agriculture - Division of Water Resources (DWR) have been met.
6. Prior to commencing excavation operations, the Applicant must obtain any applicable permits from the Planning & Development Department authorizing development in the designated floodplain.
7. Prior to commencing excavation operations, the Applicant must provide documentation to the Planning & Development Department demonstrating that a Construction Stormwater Permit has been obtained from the Kansas Department of Health & Environment.
8. Prior to commencing excavation operations, the Applicant shall provide a financial assuery in the amount of \$50,000 through a surety bond, performance bond, escrow deposit or letter of credit, to ensure the availability of funds, as determined by the County Engineer, to be necessary to cover the cost of repair of damage to roads specifically impacted by ongoing truck traffic resulting from the operation.

9. In the event the total number of Equivalent Single Axle Loads (ESALs) exceeds or is anticipated to exceed the amount projected in the approved Traffic Analysis, the conditional use must be amended.
10. Signage, as shown on the site plan, must meet the minimum requirements of Section 15 of the Riley County Zoning Regulations and the most current version of the **Manual on Uniform Traffic Control Devices (MUTCD)**. The cost of such signs and installation shall be the applicant's responsibility. Following installation, Riley County assumes responsibility for maintaining such signs. W11-10 signs shall be placed 500 feet to the north and south of the sand plant entrance and a supplemental warning plaque "500 feet" shall be placed below each sign.
11. The radius of the entrance shall be increased to 35 feet.
12. The entrance shall be paved with asphalt, to a minimum depth of six (6) inches, back to the right-of-way.
13. The applicant shall be responsible for repairing the road surface due to turning movements at the entrance into the sand plant, as determined by the County Engineer.
14. A Fugitive Dust Plan shall be submitted and approved, describing proposed dust control measures for the site, including the application of water as needed.
15. Prior to commencing excavation operations in the area demarcated on the site plan as Phase II, the area shown as Phase I shall be reclaimed, as per a determination of such reclamation by the Zoning Enforcement Officer.

Diane Hoobler seconded. Carried 5-0.

Mr. Isaac announced that if there are any person disagrees with the Board's decision regarding this matter, they have 30 days of the date of the decision to file an appeal in the district court.

Diane Hoobler moved to adjourn as the Board of Zoning Appeals and reconvene as the Riley County Planning Board. John Wienck seconded. Carried 5-0

RILEY COUNTY PLANNING BOARD

Jones Plat & Rezone

Chairman Clement accepted Petition #12-09 from the Board of County Commissioners, on behalf of the Planning Board, to reconsider a modification to the request to rezone a tract of land from "AG" (Agricultural District) to "SF-5" (Single Family Residential).

Bob Isaac presented the request and reminded the Board of the location of the subject property and the conditions of the original request. Mr. Isaac then described the modifications proposed by the applicant that mirrored the suggestions made by the Planning Board during the public hearing on June 11, 2012. The Board suggested that perhaps the property could be platted to allow for the subdivision of land to disperse amongst family members to reconcile the trust, but only rezone what is necessary to accommodate the existing residential uses. Mr. Isaac stated that the applicant agreed with the suggestion and staff researched the strategy with legal counsel to make sure it was a workable solution. Mr. Isaac explained that typically, when property is

platted into lots, the entire lot is zoned for the proposed use. However, Mr. Isaac clarified, it was determined that a property can legally have multiple zoning districts. Mr. Isaac stated that the modification of the area proposed to be rezoned to residential was substantial: a reduction from 19.5 acres to 4 total acres.

Staff recommended that, based on the merits of the new proposal, the Planning Board forward a recommendation to the Board of County Commissioners to approve the request to rezone a tract of land from “AG” (Agricultural District) to “SF-5” (Single Family Residential) for reasons listed in the staff memo. Staff also recommended that the Board approve the Final Plat of Pleasant Valley Addition, as it has been determined to meet the minimum requirements of the Riley County Zoning and Subdivision Regulations and the Sanitary Code.

Diane Hoobler moved to forward a recommendation to the Board of County Commissioners to approve the request to rezone a tract of land from “AG” (Agricultural District) to “SF-5” (Single Family Residential) for reasons listed in the staff memo.

Julie Henton seconded. Motion carried 5-0.

John Wienck moved to approve the Final Plat of Pleasant Valley Addition, as it has been determined to meet the minimum requirements of the Riley County Zoning and Subdivision Regulations and the Sanitary Code.

Julie Henton seconded. Motion carried 5-0.

Diane Hoobler thanked the applicant for working with the Board to resolve the situation.

Mr. Isaac announced that the Board of County Commissioners will hear the request on Monday July 16, 2012, at 10:45 am, in the Commission chambers.

OTHER BUSINESS

Monty Wedel gave an update on the moratorium on advertising signs and staff’s progress in researching support for the recommendation by the Billboard Advisory Group (BAG) to prohibit electronic/digital billboards. He stated that studies have been inconclusive regarding digital billboard’s impact on driver safety, or how they compare to static billboards in that regard.

Mrs. Hoobler asked Mr. Wedel to inform the Board of the members of the BAG.

Mr. Wedel explained that the BAG consisted of Phil Anderson, Bart Thomas, Steve Lee, Kevin Fateley, John Howe, and Diane Hoobler.

Mr. Wedel explained that staff is trying to establish a sound basis for prohibiting electronic/digital billboards but not the static billboards, as per requested by the BAG. He said the problem is the Federal Highway Administration is supposed to be completing Phase II of a

study that determines whether or not digital billboards are a threat to public safety. He said that the study is currently in limbo and that the last completed study came out in 2009. Mr. Wedel said that staff may be able to convince the BAG that since there is so much uncertainty at this point regarding the impacts of digital billboards on public safety, move forward with a prohibition until such time it has been determined that they are not an issue.

Chairman Clement said that the amount of light pollution coming off those things is pretty substantial.

Mr. Wedel agreed but added that the studies have suggested that particular aspect can be regulated. He stated that staff drafted stringent regulations for the BAG's review that included lowering the light emission at night, no motion, static change, etc. all of which the BAG elected not to review in favor of prohibition.

Chairman Clement stated he couldn't believe the placement of digital billboards on the curves on I-70 through Topeka.

Mr. Wienck said that it was because it's such a distraction and a shock.

Mr. Wedel stated that staff had checked on the status of the reclamation of the Hall's Quarry, as enforced by the State, and found that the operation manager of the quarry admitted that they have no intention of re-opening the site. Mr. Wedel explained that the State will commence enforcement to reclaim the site.

Mr. Wedel explained that, according to the State's procedure, a quarry site can be inactive and not have to reclaim (depending on the reclamation plan) as long as they are current with their annual license and registration.

Julie Henton asked for an update on the Wildcat Creek Watershed.

Mr. Wedel stated that as part of the Silver Jackets program, they are developing goals and objectives for a Watershed Management Plan. Mr. Wedel stated that a funding mechanism, like a watershed district, is also mentioned in that plan, but it is not definitive. Mr. Wedel stated that he suggests that if they wish for the County Commissioners to get involved, bring them a proposal.

Mr. Taul said that he noticed that Commissioner Jankovich has sent out a draft proposal but he hasn't read it yet.

Mr. Wedel stated that they have had several conversations with the Conservation District but they are reluctant to take a position on issues; they are there for guidance.

John Wienck moved to adjourned. Diane Hoobler seconded. Carried 5-0.

The meeting was adjourned at 8:45 P.M.