

## MINUTES

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

Monday, April 8, 2013  
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  
Diane Hoobler  
Julie Henton  
John Wienck

Members Absent: None

Staff Present: Monty Wedel – Director, Bob Isaac – Planner, Lisa Daily –  
Administrative Assistant

Others Present: Carl Sinn, Brad Sinn, Fred Schurle, Janice Moyer, Dave Suhling, Bruce Braddy, Benjy Jorgenson, Jeff Schurle, Stan Schurle, Gary Henton, Jason Anderson, Gary & Diana Hargrave, Norwin Palmer, Wally Pope, John Ball, Linda Morse, Fred Carlson, Greg Fief, Laurie Curtis and Janet Wataha.

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#### **OPEN PUBLIC COMMENTS**

Bruce Braddy stated he had a concern with an ongoing building project located at the intersection of the 60<sup>th</sup> Avenue and Tuttle Creek Boulevard. He stated he is personally against any more building permits being issued in Riley County until something can be done about it.

Monty Wedel stated the (Planning) department is aware of the issue and that there is nothing in the current regulations to deal with this. He said revisions will eventually be made to the regulations to provide a method for dealing with such situations.

#### **CONSENT AGENDA**

The minutes of the March 11, 2013 meeting were presented and approved. The Report of Fees for the month of March 2013 (\$2,817.25) were presented and approved.

Julie Henton moved to adjourn the joint meeting of the Riley County Planning Board/Board of Zoning Appeals and, due to the lack of agenda items for the Board of Zoning Appeals, moved to reconvene as the Riley County Planning Board.

Diane Hoobler seconded. Carried 5-0

## **RILEY COUNTY PLANNING BOARD**

### **Jorgenson - Plat & Rezone**

Lorn Clement opened the public hearing at the request of Benjy R. & Linda S. Jorgenson, petitioner, and Benjy R. & Linda S. Jorgenson, Gary L. & Diana C. Hargrave, and Donald W. & Marjorie J. Area, owners, to rezone of a tract of land from “C-PUD” (Commercial Planned Unit Development) and “AG” (Agricultural District) to “C-PUD” (Commercial Planned Unit Development) and plat the aforementioned tracts of land into one (1) lot in Jackson Township, Section 18, Township 7 South, Range 6 East, in Riley County, Kansas.

Bob Isaac presented the request. Mr. Isaac described the history, location and physical characteristics of the subject property. He stated that the subject site was found to be in compliance with the Riley County Sanitary Code. Staff recommended that the Board approve the request to rezone the subject property from “C-PUD” (Commercial Planned Unit Development) and “AG” (Agricultural District) to “C-PUD” (Commercial Planned Unit Development) for the following reasons. Staff recommendation is based on the following findings:

- The proposed development is generally in conformance with the Vision 2025: A Comprehensive Plan for Riley County, Kansas.
- The business has operated successfully at the current location for several years.

Staff also recommended that the Board approve the Concurrent Plat of Jorgenson Addition, as it was determined to meet the minimum requirements of the Riley County Zoning and Subdivision Regulations and Sanitary Code.

Tom Taul moved to close the public hearing. John Wienck seconded. Carried 5-0.

Diane Hoobler moved to recommend approval of petitions #13-07, #13-08 and #13-09 , for reasons listed in the staff report.

John Wienck seconded. Motion carried 5-0.

Tom Taul moved to approve petition #13-10 (plat) for reasons listed in the staff report.

Diane Hoobler seconded. Motion carried 5-0.

Mr. Isaac announced that the Board of County Commissioners would hear the request on April 25, 2013, at 10:20 am, in the County Commission Chambers.

### **Anderson – Plat and Residential Use Designator**

Lorn Clement opened the public hearing at the request of Jason Anderson, petitioner and William G. & Zoe A. Gugenhan, to receive a Residential Lot Designator-Extraneous Farmstead and plat a tract of land into one (1) lot in Center Township, Section 12, Township 7 South, Range 5 East, in Riley County Kansas.

Bob Isaac presented the request. Mr. Isaac described the background, location and physical characteristics of the subject property. Staff recommended approval of the request to receive a Residential Use Designator–Extraneous Farmstead. Staff also recommended approval of the concurrent plat of Anderson Estates, based on a determination that the minimum requirements of the Riley County Zoning and Subdivision Regulations have been met.

Julie Henton moved to close the public hearing.

John Wienck seconded. Carried 5-0.

Tom Taul moved to approve petitions #13-11 and #13-12, for reasons listed in the staff report.

Diane Hoobler seconded. Motion carried 5-0.

Mr. Isaac announced that the Board of County Commissioners would hear the request on April 15, 2012, at 9:00 am, in the County Commission Chambers.

### **Pope - Plat & Rezone**

Due to a conflict of interest, Board member, Julie Henton abstained.

Lorn Clement opened the public hearing at the request of Wallace L. & Marge M. Pope, petitioner, Bradley R. & Tammy F. Sinn and Carl P. & Lorene E. Sinn, owners, to rezone a tract of land from “SF-5” (Single Family Residential) and “AG” (Agricultural District) to “R-PUD” (Residential Planned Unit Development) and plat the tract into one (1) lot.

Bob Isaac presented the request. Mr. Isaac described the history, location and physical characteristics of the subject property. He stated that the subject site was found to be in compliance with the Riley County Sanitary Code. Staff recommended that the Planning Board forward a recommendation of approval of the request to the Board of County Commissioners to rezone a tract of land from “SF-5” (Single Family Residential) and “AG” (Agricultural District) to “R-PUD” (Residential Planned Unit Development) based on the following:

- The subject site has been developed and zoned as a non-agricultural homestead for several years;
- The proposed development is for a single lot, with an existing house. No additional residential development is being proposed at this time;
- A minimum lot size has been established on the Final Development Plan, requiring that any subsequent replatting must also require amending the Final Development Plan;
- The proposed development is generally in conformance with the Vision 2025 A Comprehensive Plan for Riley County, Kansas; and
- Measures have been incorporated into the R-PUD Final Development Plan which will require the filing of a Fort Riley, Kansas Area of Military Impact Real Estate Disclosure Form along with the Final Plat, as per the recommendations of the Flint Hills Joint Land Use Study.
- An Agricultural Protection Easement must be filed along with the plat.

Staff also recommended that the Planning Board approve the concurrent plat of Pope Addition, as it has been determined that all requirements of the Riley County Subdivision Regulations, Zoning Regulations and Sanitary Code have been met.

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

Diane Hoobler moved to recommend approval petitions #13-13 and #13-14, and approve petition #13-15 (plat) 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 April 25, 2013, at 10:40 am, in the County Commission Chambers.

Board member, Julie Henton, rejoined the meeting.

### **Curtis - Plat & Rezone**

Lorn Clement opened the public hearing at the request of John L. Curtis, petitioner, and D. Rex & Marjorie Curtis Family Trust, owner, to rezone of a tract of land from “AG” (Agricultural District) to “R-PUD” (Residential Planned Unit Development) and plat the aforementioned tract of land into five (5) lots.

Bob Isaac presented the request. Mr. Isaac described the history, location and physical characteristics of the subject property.

Mr. Isaac stated the final development plan listed the following permitted uses and structures:

1. Single family residences. (site built homes only)
2. Pre-engineered buildings (not for habitation) used to store and protect equipment, animals, feedstuffs, boats, RV’s, or used as a workshop for personal hobbies and recommended removing, “&/or for Type I Special Events (as defined under Section 22B of the Riley County Zoning Regulations)”.
3. Home occupations as defined by Section 19 of the Riley County Zoning Regulations.
4. Signage shall be limited to a subdivision entrance sign as shown and noted on the final development plan. Sign shall be owned and maintained jointly by all lots.

Mr. Isaac stated of the 26 notes listed on the final development plan, listed are the notes for review:

1. All drives and parking areas shall consist of all-weather surfacing;
2. All proposed lighting shall have directional control or appropriate cut-offs to minimize spillage and light trespass;
3. Existing areas with native tree stands shall remain intact as much as possible;
4. There shall be no mobile homes or manufactured homes;

5. Licensed or registered day care services not allowed. Mr. Isaac said group homes as defined by the Riley County Zoning Regulations are not allowed.
6. Stock animals, except for horses, are not allowed.
7. Maximum number of horses shall be limited to three per lot;
8. Equine fitting, riding/training lessons or demonstrations are not allowed;
9. Fitting, riding or roping activities involving cattle are not allowed;
10. Churches, synagogues, temples and chapels are not allowed;
11. Nurseries or gardens intended to yield fruits, vegetables, nuts or flowers for sale, or to be processed into beverages or food products for sale, are not permitted;
12. Public parks, playgrounds, golf courses, swimming pools and recreational buildings are not allowed;
13. An Agricultural Buffer, as shown on the Final Development Plan, shall be subject to Section 21C of the Riley County Zoning Regulations.
14. Planting trees, shrubs, etc. within the 20-ft. utility easement along the south border shall be prohibited;
15. The KSU Beef Stocker Unit fence and research pasture bordering all lots is private property. No trespassing or dumping permitted;
16. Post-development stormwater run-off rates shall be equal or less than pre-development run-off rates. (The Final Development Plan must show how this will be accomplished)
17. An Agricultural Protection Easement shall be filed along with the Final Plat;

Mr. Isaac stated that a storm water drainage study was completed concluding there would be an approximately 4% increase in the rate of storm water runoff. He said it was reviewed by Leon Hobson, County Engineer. Mr. Isaac said that Mr. Hobson disclosed that, through discussions with KDOT, it was discovered that there is an existing storm water drainage problem east and north of the site. Mr. Isaac said the applicant and his representative did not receive this information in time to make modifications to the development plan, but the final development plan will show a detention pond to control the rate of runoff.

Mr. Isaac stated that the subject site was found to be in compliance with the Riley County Sanitary Code. Staff recommended that the Planning Board forward a recommendation of approval of the request to the Board of County Commissioners to rezone a tract of land from "AG (Agricultural District) to "R-PUD" (Residential Planned Unit Development). Staff recommendation is based on the following findings:

- The subject site has been developed with a non-agricultural homestead for several years;
- A minimum lot size has been established on the Final Development Plan, requiring that any subsequent replatting must also require amending the Final Development Plan;
- The proposed development is in general conformance with the 2003 Manhattan Urban Area Comprehensive Plan and the Vision 2025: A Comprehensive Plan for Riley County, Kansas;
- In order to minimize urban-rural conflict between proposed residential uses and existing agricultural uses, a 200-foot agricultural buffer has been included along the south property line, as per Section 21-C – Development Standards of the Riley County Zoning Regulations; and
- An Agricultural Protection Easement is required to be filed along with the plat.

Staff also recommended that the Planning Board approve the concurrent plat of Heritage Estates, as it has been determined that all requirements of the Riley County Subdivision Regulations, Zoning Regulations and Sanitary Code have been met.

Diane Hoobler asked if a site location has been determined for the detention pond.

Greg Fief, Schwab-Eaton, P.A., representative for the Applicant, stated that a drainage report was completed; indicating the runoff would be minimal and a detention pond would not be needed. He said however, the applicant does not want to contribute to any downstream problems and has agreed to construct a stormwater facility. He stated a majority of the detention pond will be located on proposed Lot 1, a small portion on Lot 5 and even smaller fraction on Lot 2.

Mr. Fief shared that the Applicant plans to build and reside on Lot 1. He stated the Applicant wants a quality development that would allow for horses. Mr. Fief stated there is a minimum lot size standard and further subdivision would need to be formally reviewed.

On behalf of the applicant, Mr. Fief asked that 200-foot agricultural buffer setback requirement be reduced, based on the following:

- K-State staff doesn't use pesticides or herbicides.
- Noise and nighttime lighting, very little noise will be generated by cattle and there is no lighting.
- Dust, little will be produced due to pasture.
- Trespass, vandalism, theft, litter, liability; a small portion of KSU property will be exposed to the four (4) lots.
- K-State agriculturally burns once a year for one day.
- Beekeeping is not an issue.
- Erosion and development impacts will not be an issue as drainage will be away from the property.

Laurie Curtis stated that the setback restricts the area where owners will want to build their home.

Chairman Clement asked if there were any proponents within 1000 feet. There were none.

Chairman Clement asked if there any opponents within 1000 feet.

Norwin Palmer stated he lives more than 1000 feet away and is not opposed to the development providing water runoff is not increased. He said there is already a flooding issue on his property.

Bruce Braddy stated his opposition is against any new development or the issuing of any new building permits due to situation on 60<sup>th</sup> Avenue. He stated he is not opposed to this development. Mr. Braddy said that in response to the request for the reduction of the agricultural buffer; if the Board bends the rules, they will continue to bend the rules.

Monty Wedel stated the following needs to be removed from the development plan:

- “Group homes, as defined by the Riley County Zoning regulations, are not allowed”. Mr. Wedel stated there is a statutory requirement that group homes must be allowed wherever single family residences are permitted. He stated prohibiting group homes would have to be addressed using private covenants, which are not enforceable by the County.
- “Custom built site-built homes”. Manufactured Homes of Residential Design also have a statutory protection which states that manufactured homes of residential design must be permitted wherever single family residences are permitted. He stated this is another item that would have to be addressed using private covenants.

Gary Henton stated he lives directly east of the proposed development and really doesn't want a horse barn built next to his property. He said he is not sure what the setback requirements would be. He also expressed concern about flooding.

Janet Wataha stated she lives west of the proposed development. She had questions about the shared entrance, what would the development do to the property taxes and stated that she has cattle along the fence line. She stated concerns with increased traffic, erosion and noise.

Chairman Clement asked if the Applicant had any rebuttal.

Greg Fief stated a stipulation could be made for construction time frame. He said concerning the entrance to proposed Lot 1; the Applicant is very familiar with the entrance and has a plan to build a bridge for access. He said that, as far as the horse barn on proposed Lot 4, further restrictions could be put in place.

Fred Carlson stated he is concerned about the flooding and that traffic is horrible.

John Wienck moved to close the public hearing. Diane Hoobler seconded. Carried 5-0.

John Wienck stated he has noticed the excess water in the area and was concerned with increasing the amount. He said the 200-ft. agricultural buffer setback is there for a reason but maybe could be reduced to 100 feet.

Chairman Clement stated the buffer was created in consideration for nearby cropping operations, not so much for rangeland. He too expressed concerned about stormwater drainage.

Diane Hoobler stated she did not want to budge off the 200-foot buffer.

Tom Taul stated the 200-foot buffer should remain.

Julie Henton stated the 200-foot buffer should stay. She also said drainage is a real concern.

Tom Taul said the shared entrance to Lot 1 is within KDOT right-of-way and the Board doesn't have any authority or jurisdiction regarding access.

Chairman Clement said the Land Evaluation Site Assessment (LESA) scored moderate for development.

Monty Wedel said he identified (4) four items that the Board may want to consider.

- Delete “group homes” language from the development plan;
- Under permitted uses, change “site built custom homes only” to “single family residences;
- Add the 200-foot agricultural buffer the west side of Lot 1;
- Add a note to the development plan restricting any structures housing of livestock/horses within a certain distance, as determined by the Board, of the east property line of Lot 4.

Diane Hoobler asked if 50 feet would be sufficient.

Monty Wedel stated he thought that was reasonable.

Tom Taul asked the Applicant if the 200-foot agricultural buffer on the west side of Lot 1 and eliminating site built homes, adding a 50-foot setback for livestock structures on the east of Lot 4 would be acceptable.

Laurie Curtis stated she has a concern about the 200-foot agricultural buffer on Lot 1 as it eliminates possible building sites for the home. She asked for a compromise. She stated they would be willing to work with the 50-foot setback on Lot 4.

Chairman Clement stated he understands the concern about constituency with the 200-foot agricultural buffer and feels it was based on cropland more than rangeland. He said he would be inclined to reduce it to a 100-foot agricultural buffer.

Diane Hoobler asked the property owner to the west of the subject site what type of livestock they have and how many acres they own.

Janet Wataha replied she has cattle, horses and owns 46 acres.

Diane Hoobler moved to recommend approval of petition #13-16, with the following modifications and for reasons listed in the staff report.

- Delete group homes from the notes;
- Eliminate site built custom made homes restriction from the list of permitted uses;
- Add a 100-foot agricultural buffer along the west property line of Lot 1;
- Reduce the 200-foot agricultural buffer to 100 feet along the south property line of subject site;
- Add a note to the development plan restricting any structures housing of livestock/horses within 50 feet of the east property line of Lot 4.

Tom Taul seconded. Motion carried 5-0.

Diane Hoobler moved to approve petition #13-17 , with the condition that a detention pond be included on the final development plan and/or plat and for reasons listed in the staff report.

Tom Taul seconded. Motion carried 5-0.

Mr. Isaac announced that the Board of County Commissioners would here the request on April 25, 2013, at 10:55 am, in the County Commission Chambers.

**Manhattan Urban Area Comprehensive Plan, Eureka Valley – Highway K-18 Corridor Plan**

The public hearing was conducted. There were no public comments and no modifications to the plan were suggested. Julie Henton moved that the Board sign Resolution #040813 amending the Manhattan Urban Area Comprehensive Plan by incorporating the Eureka Valley – K-18 Corridor Plan, dated April 2013. John Wienck seconded. Carried 5-0.

John Wienck moved to close the public hearing.

Julie Henton seconded. Carried 5-0.

**Wildcat Creek Watershed Management Plan**

The agenda item was tabled until the next meeting.

John Wienck moved to adjourn. Tom Taul seconded. Carried 5-0.

The meeting was adjourned at 10:04 P.M.