

MINUTES

RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Monday, March 14, 2016
7:30 pm

Courthouse Plaza East
Commission Meeting Room
115 North 4th Street

Members Present: Dr. Tom Taul, Vice-Chair
Diane Hoobler
John Wienck
John Osarczuk

Members Absent: Lorn Clement, Jr., Chair

Staff Present: Bob Isaac – Planner and Lisa Daily - Administrative Assistant

Others Present: Jack Scheidt, Taylor Niemann, Caroline Niemann, Alex Niemann and
Larry Hoobler

OPEN PUBLIC COMMENTS

Taylor Niemann asked how many counties are in Kansas and if this was going to be a debate.

Vice-Chair, Tom Taul replied there are 105 counties. He explained the meeting is civil and we (the Board) are here to answer questions regarding development in Riley County.

Alex Niemann asked what the current sales tax rate in Kansas is.

Vice-Chair, Tom Taul said for Riley County it is .0875 and that the state part of that is .541. He said the County has additional taxes also but the total is .0875. He said we also have tax on food sales.

CONSENT AGENDA

The minutes of the February 8, 2016 meeting were presented and approved. The Report of Fees the month of February (\$2,633.00) were presented and approved.

Diane Hoobler moved to adjourn the joint meeting of the Riley County Planning Board/Board of Zoning Appeals and convene as the Board of Zoning Appeals.

John Osarczuk seconded. Carried 4-0.

BOARD OF ZONING APPEALS

AT&T Mobility – Conditional Use

Vice-Chair, Tom Taul opened the public hearing at the request AT&T Mobility, petitioner and Deryl & Joyce Troyer, owners, to amend Conditional Use Authorization (#07-25) for an existing 350-foot guyed supported communications tower to allow for the installation of parabolic dish type antennas.

Vice-Chair, Tom Taul asked the Board Members to declare any ex parte contact they may have had regarding this item and to declare any conflict of interest or communications they've had that could influence their ability to be impartial.

All Board Members confirmed there were none.

Bob Isaac presented the request. Mr. Isaac described the history, location and physical characteristics of the subject property. He said the proposed parabolic dish antenna is proposed to be installed at the halfway point of the tower. Mr. Isaac said the Applicant wishes to modify the language of condition #5 of the existing Conditional Use Authorization to allow for parabolic dishes. Staff recommended approval of the request with the conditions as listed in the staff report.

John Osarczuk asked if all towers get approved without specific kinds of antennas or can they apply as many dishes as they desire in the future.

Mr. Isaac replied the primary concern regarding locating parabolic dishes on towers was primarily due to aesthetics; historically associated with large dishes/horns used for radio and TV transmission. Mr. Isaac stated that new technology, particularly the wireless communications industry, is relying more on parabolic dishes for specific functions of data transmission between towers. Bob Isaac replied there can any number of them antennas, depending on the strength, design and capacity of the tower. He said that the proposed condition limits the size of any dish to 8-foot diameter maximum.

John Osarczuk inquired if any other conditional uses for towers in Riley County come up, they are probably written the same and would require this amendment.

Bob Isaac said it depends on the zoning in which the tower is located. Towers in commercial and industrial zoning districts are a permitted use and do not require a conditional use. He said some towers were allowed via a Commercial Planned Unit Development.

John Osarczuk stated it sounds like this is going to happen a lot as density of population rises and the need for trunking communications increase.

Bob Isaac said it depends on how many towers were constructed utilizing the conditional use process and the type of the tower.

Diane Hoobler asked if a dish is added to the tower, does the conditional use need to be amended.

Bob Isaac said with the amendment to Conditional Use #5, there is no limit to the number parabolic dishes that can be added without having to amend to conditional use authorization.

Tom Taul stated he was curious how many dishes could a 350-foot tower support.

Bob Isaac said he couldn't answer that question.

Vice-Chair, Tom Taul asked if the Applicant wanted to speak.

Jack Scheidt, Network Real Estate, LLC and representative for the Applicant, stated he would like to address some of the questions from the Board members. He said an engineering study would be required to determine how many dishes could be allowed on a particular tower. Mr. Scheidt stated the towers that you see with a bunch of dishes on it are designed specifically to accommodate a lot of microwave dishes, which typically are the old land line back haul systems. He said those dishes are the big horn 15-foot dishes that you typically see four (4) in a row. He said the other towers are more for cell antennas and a couple of dishes.

Mr. Scheidt stated that not all towers would need a dish. He said it depends on the location and the telecommunications that are available for that area. If you live in town, there are better services available; when you get out in the county, services are limited. He said that, as a result, other alternatives must be explored. Mr. Scheidt said it would be a limited number of towers that would require a dish.

There were no proponents or opponents.

John Wienck moved to close the public hearing. Diane Hoobler seconded. Carried 4-0.

Diane Hoobler moved to approve the request to amend Conditional Use Authorization (#07-25) for an existing 350-foot guyed supported communications tower to allow for the installation of parabolic dish type antennas with the conditions and reasons stated in the staff report.

John Wienck seconded. Carried 4-0.

John Wienck moved to adjourn the Board of Zoning Appeals meeting and convene as the Riley County Planning Board. Diane Hoobler seconded. Carried 4-0.

RILEY COUNTY PLANNING BOARD

Amend Section 21C – Development Standards of the Riley County Zoning Regulations

Vice-Chair, Tom Taul opened the public hearing to amend Section 21C – Development Standards of the Riley County Zoning Regulations.

Bob Isaac stated that a couple of years ago, after conducting the annual review of Comprehensive Plan, the Board agreed the regulations should be amended to waive the agricultural buffer requirement for properties located within designated growth areas. Mr. Isaac said the designated growth areas for the unincorporated areas of Riley County area were identified in Vision 2025 Comprehensive Plan as: the Manhattan Urban Area, areas around the cities of Randolph, Leonardville, Riley, Ogden and the concentration of platted and zoned residential subdivisions along Tuttle Creek Lake.

Mr. Isaac explained the agricultural buffer is to provide space or physical separation between typical farming and ranching practices and residential development. He explained the buffer serves to protect farming/ranching operations from nuisance complaints and to protect the health and safety of the general public from noise, dust, odor, spraying and other normal activities that are part of the art and business of farming and ranching.

Mr. Isaac stated that with the exception of certain residential designator lot classifications, any tract of land proposed for non-agricultural residential development that borders an active

agricultural operation is subject to a 200-foot setback for structures intended for habitation by humans or animals. He said the setback is negotiable and can be reduced to 50 feet by the Planning Board, depending on the nature of the surrounding agricultural operation. However, he explained that in areas where residential development is encouraged, directed and expected to occur, such a large setback can result in very low density and inefficient development. Mr. Isaac said in some cases, the setback renders a tract unbuildable.

Mr. Isaac displayed the proposed text amendment as follows:

Applicability

The agricultural buffer standard shall apply to all new non-agricultural residential or commercial lots (excluding Extraneous Farmstead and Reconversion Lot residential use designator lots) *located outside of any Designated Growth Area, as shown on the Future Land Use Map in Vision 2025: A Comprehensive Plan for Riley County, Kansas.*

Mr. Isaac stated the words in *italic* are to be added and will eliminate the agricultural buffer requirement within the designated growth areas.

Staff recommended that the Planning Board forward a recommendation of approval to the Board of County Commissioners to adopt the proposed amendment as published.

Diane Hoobler said it appears to read the buffer will be eliminated outside the designated growth area.

Bob Isaac explained the agricultural buffer requirement will apply to all areas outside the designated growth areas *except* for Extraneous Farmstead and Reconversion Lot residential use designator lots.

John Osarczuk said the list of reasons why the agricultural buffer was created is really good. He said he understands the advantage for development to occur in the urban area; however, keeping the buffer between residential development and agricultural activity is still a good idea. He said that the developer is going to knock down the 10 or 20-foot line of hedge rows for every bit of buildable space.

Bob Isaac replied it is a good idea however there are also building setback requirements required by zoning and subdivision regulations. Mr. Isaac said the elimination of the buffer is for the designated growth area around the cities. He explained that although agricultural activity still occurs within these areas, especially the Manhattan Urban Area, the preservation of agricultural uses within these areas is deemphasized as it is expected that these areas will eventually urbanize.

Bob Isaac stated that it was part of the philosophy of Vision 2025 to provide balance between the preservation of agricultural lands and operations with non-agricultural residential development. He explained that the Plan specifically designated these areas for future residential growth.

Diane Hoobler replied you don't want growth out in the agricultural area.

John Osarczuk replied I understand there are agricultural areas in the urban areas.

Diane Hoobler replied going out towards Zeandale the (Manhattan Urban Area boundary) line goes all the way to Ron Wilson's house and there is a lot of agricultural land.

John Osarczuk asked shouldn't we want to retain the agricultural character in the urban area even though there is residential development?

Bob Isaac said he wanted to clarify for Mrs. Hoobler that the boundary line she is thinking of is the Manhattan Urban Area Comprehensive Plan study area, which extends out much further than the Manhattan Urban Area. Mr. Isaac explained that since the inception of the Inter-local Agreement establishing the Manhattan Urban Area, it has been agreed that this area will eventually be developed as the City of Manhattan grows. He said the agricultural activities within this area are not being forcefully pushed out.

John Osarczuk asked so it's not necessarily to eliminate the conflict?

Bob Isaac repeated that the preservation of agricultural lands within those areas is basically deemphasized to allow for non-agricultural uses. He said for example, along the lake there is finite amount of land that comprises the designated growth area. He said the goal is to utilize as much of the area as possible for its intended purpose, but with such large setbacks, a tract/lot that could accommodate four houses could be reduced to the point of only being able to accommodate one house. Mr. Isaac asked the Board what happens when more room is needed for non-agricultural residential growth and the designated growth area needs to expand to accommodate it.

John Osarczuk replied the best use of what is designated so you won't have to add more designated area.

Bob Isaac agreed and stated that this goal is in the Plan and we should allow for balance.

John Osarczuk said it will slowly force the agricultural out of the designated area.

Bob Isaac replied that is the expectation, eventually, but could take 20-30 years to happen.

Diane Hoobler asked have there been any recommendations for a tract in the designated growth area that abuts agricultural for requirements of trees or shrubs.

Bob Isaac asked what happens in the future if that agricultural land gets sold for residential development and you have the 200-foot setback gap.

Diane Hoobler said she understands that.

Vice-Chair, Tom Taul said the only problem that would ever occur would be when you get to the last lot in the designated growth area. He said, theoretically, that would be the only time you might wish there was a buffer.

Bob Isaac said the type of zoning could be modified for that area or refined with the rewrite of the zoning and subdivision regulations.

John Osarczuk said in essence having the agricultural buffer area inside the designated growth area creates a disincentive to drive the growth to designated areas.

Bob Isaac said we want to make the designated growth areas as appealing as possible for non-agricultural residential development.

Bob Isaac announced that the Manhattan Urban Area will hear the request on April 4, 2016 at 7:00 pm, in the City Commission Room and the Board of County Commissioners will hear the

request on April 11, 2016, at 9:15 am, in the County Commission Chambers.

John Wienck moved to close the public hearing. Diane Hoobler seconded. Carried 4-0.

John Wienck moved to forward a recommendation of approval of the amendment to Section 21C of the Riley County Zoning Regulations to the Board of County Commissioners.

John Osarczuk seconded. Roll call voting was completed 4-0.

Annual Comprehensive Plan Update

Bob Isaac provided the Board with an outline of the material for the statutorily mandated annual review of the comprehensive plan. He began the review with presenting the Total Residential Building Permits 2015 chart information. He explained that although the goal of the Plan is to have the majority of non-agricultural residential growth within the designated growth areas, the goal was not being met due to other factors such as lots of record and agriculturally exempt homes. Mr. Isaac briefly explained what constituted a “lot of record” and clarified that tracts larger than 20 acres that were created prior to 1980 were not considered lots of record, but are considered agricultural tracts. He explained that this philosophy was in part due to the 20-acre minimum lot size for a house in the agricultural district hadn’t been created yet; thus, no incentive to acquire that much acreage to avoid the platting and rezoning process. Mr. Isaac explained that eventually, there will be fewer lots of record, with the less residential development occurring outside of designated the growth areas.

John Osarczuk asked is 20 acres grandfathered?

Bob Isaac replied it depends on when it was created. Mr. Isaac said anytime someone wants to apply for a permit to build a residence in the Agricultural District, staff must research the property to see if it is a Lot of Record. Mr. Isaac stated that if it is a Lot of Record, the property owner must explore other options.

Mr. Isaac said if it is not a Lot of Record, staff recommends that a preliminary Land Evaluation Site Assessment (LESA) be completed. He explained that the result of the analysis will provide the the property owner with an objective analysis to make an informed decision whether to move forward with an application that can be costly with no guarantee of approval.

Mr. Isaac requested that the Board members review the Executive Summary of the Comprehensive Plan, of which nothing has changed. He stated that if any members of the Board find any of the goals, objectives or policies are not functioning correctly or not happening according to Plan, to bring the information to the next meeting.

Update on Zoning and Subdivision Regulations re-write

Bob Isaac announced that five companies responded to the Request for Qualifications. The selection committee has reviewed the materials provided by each and on Friday, March 25th three of the companies will be interviewed.

Diane Hoobler moved to adjourned. John Wienck seconded. Carried 4-0.

The meeting was adjourned at 8:44 P.M.