

## MINUTES

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

Monday, August 8, 2016  
7:30 pm

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

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

Members Absent: None

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

Others Present: Cathy Scroggs, Ken Scroggs and Jay Reppert

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#### **OPEN PUBLIC COMMENTS**

None

#### **CONSENT AGENDA**

The minutes of the May 9, 2016 meeting were presented and approved. The Report of Fees the month of May (\$2,983.00), June (\$5,211.00), and July (\$1,858.00) were presented and approved.

Diane Hoobler 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. Tom Taul seconded. Carried 5-0.

#### **RILEY COUNTY PLANNING BOARD**

Chairman Clement opened the public hearing at the request of Ken & Cathy Scroggs, petitioners and owners, to rezone a tract of land from "AG" (Agricultural District) to "R-PUD" (Residential Planned Unit Development) in Wildcat Township, Section 30, Township 9 South, Range 7 East, in Riley County, Kansas.

Chairman Clement 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.

John Osarczuk declared that he knows Ken Scroggs and that his daughter rode horses at the Scroggs farm for three (3) or four (4) years. Mr. Osarczuk stated they have not worked together for about three years and feels this would not create any issues for him.

Bob Isaac presented the request. Mr. Isaac described the history, location and physical characteristics of the subject property. He said the applicant received Conditional Use Authorizations in 2007-2008 for a small horse boarding operation and a new indoor equestrian riding facility.

Mr. Isaac explained that due to the proposed development being located within the Fort Riley Noise Zone - Land Use Planning Zone (LUPZ), the Applicant has agreed to file a Fort Riley, Kansas Area of Military Impact Real Estate Disclosure Form with the Register of Deeds, as a condition of the proposed Residential Planned Unit Development.

Mr. Isaac stated that planning staff discovered that there was an occupied two-bedroom apartment established in the upper level of the arena and an apartment established over the garage. He stated staff concluded that these uses were in violation of the zoning regulations, the sanitary code and State fire code. Mr. Isaac said the Applicant met with staff to discuss abatement procedures. He stated that due to the combination of a single family residence, two accessory dwelling units (apartments), an indoor riding arena, horse boarding operation, and various agricultural uses, it was advised that a use-specific zoning designation (Residential Planned Unit Development) be utilized and that the site be brought into compliance with the sanitary code and State fire code.

Mr. Isaac said another concern the County received was regarding the fenced area between the driveway and the indoor arena. He explained the area slopes south and drains underneath W. 69<sup>th</sup> Ave. Mr. Isaac said the combination of a failed or broken lateral field located within this area and an undersized system which serves the riding arena and times when this area becomes a dry lot has created a situation where the soil doesn't properly slope or filter stormwater before it runs off the property onto adjoining properties.

Mr. Isaac stated the Applicant met with staff of the Riley County Conservation District to discuss remediation measures. Mr. Isaac stated it was also recommended that the entire area be reestablished with native or brome grasses and no livestock be allowed in the area. He explained the intent is to lessen the quantity of stormwater leaving the site while simultaneously increasing the quality through natural filtration.

Mr. Isaac reviewed the list of permitted uses, structures and notes.

Staff recommended approval of the request to rezone the proposed property, as it was determined that it met the requirements of the Riley County Zoning Regulations and the Riley County Sanitary Code.

John Osarczuk asked if this request required notifications.

Bob Isaac replied property owners within 1,000 feet are required to be notified of a rezoning.

Diane Hoobler asked if the list of items suggested by Pat Collins had to be completed within a specific time.

Bob Isaac stated the PUD requires the property to be in compliance with the State Fire Code. He explained, as the code is currently written, the entire arena would have to be “sprinkled”. Mr. Isaac stated the list of items suggested by Pat Collins was to assist the Applicant with a written request for a variance to the State Fire Marshal’s Office, to “sprinkler” in the apartment only. He said if granted, the Applicant will have to follow that criteria.

Chairman Clement asked how long the apartments have been on site.

Bob Isaac stated the apartment over the garage was most likely installed by the previous owner back in the 1970’s. He said the apartment within the arena was built at the time the arena was constructed, approximately 2008.

Ken Scroggs, 3841 W. 69<sup>th</sup> Ave., stated the County informed him the apartment was not on the books (not permitted). He stated he visited with staff and it was recommended that a Planned Unit Development be done to bring the property into compliance.

There were no proponents or opponents.

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

Chairman Clement stated it is good to see that the property is coming into compliance. He said that this type of request is very distasteful for the Board to have to deal with because the Board feels like they are “fixing a problem” that should have not been there in the first place. Speaking directly to the Applicant, Chairman Clement said the Applicant inherited this but we are not inclined to make these approvals without giving people a hard time for what appears on the surface to be ignoring zoning codes, rules and regulations for land development in Riley County. He said that he didn’t think Mr. Scroggs was in that category. Chairman Clement stated he was also very concerned about the barn apartment being a safe place for someone to live.

Ken Scroggs stated there are smoke detectors in every room and fire extinguishers every 50 feet in the barn.

Diane Hoobler asked the Applicant if hay is stored in the barn.

Ken Scroggs replied that one of the workers was storing some hay so he didn’t have so far to go to get it, but has been asked to cease that activity. He stated the barn is no longer used for hay storage.

Tom Taul stated he would like to thank the Applicant for his willingness to try bring the property back into compliance.

Diane Hoobler moved to recommend approval of Petition #16-07 to rezone from “AG” (Agricultural District) to “R-PUD” (Residential Planned Unit Development) for reasons listed in the staff report and the list of permitted uses, structures and notes. John Wienck seconded. Motion carried 5-0.

Mr. Isaac announced that the Board of County Commissioners would hear to rezone the property on August 25, 2016, at 10:00 am, in the County Commission Chambers.

### **Update on Zoning and Subdivision Regulations re-write**

Monty Wedel stated Elizabeth Garvin is continuing to work on the evaluation so there isn’t much to report at this time.

### **Update on Big Blue Floodplain Management Plan**

Monty Wedel said he spoke with Chad Bunger at the City of Manhattan. He said the draft should be ready in a week or two to distribute to the advisory group and our planning staff to finalize and then back to City staff.

### **Update on Fort Riley Joint Land Use Study**

Monty Wedel asked the Board if everyone knew what a Joint Land Use Study was. He said the last study was done in 2005. Mr. Wedel explained it is a study funded by the Office of Economic Adjustment Department of Defense to examine development around military bases and the impact of noise, aircraft, habitat, towers, wind generators, and radar on the surrounding areas. He said surrounding municipalities look at ways to cooperate and possibly tailor developments so they are not impacting the military base mission.

Mr. Wedel said this is an update to the previous study and he would like to focus on implementation this time around. He explained the study in 2005 was the first ever done and a lot of time was spent assuring people that the study was not a “back door” way for Fort Riley to expand.

Mr. Wedel stated this is a regional study working with the cities of Riley, Ogden, Junction City, Milford and Geary County. He said there is a Technical Advisory Committee and Policy Committee. The Policy Committee is made up of an elected representative from each jurisdiction. Mr. Wedel stated he is on the Technical Advisory Committee.

He said there is a Selection Committee that is made up of representatives from both the Policy Committee and Technical Advisory Committee. A Request for Proposals was issued and seven (7) proposals from consultants have been received in response. Mr. Wedel said there will be a meeting on Wednesday, August 10<sup>th</sup> to go through the selection process. He stated the study will impact the Riley County zoning/subdivision regulation rewrite.

John Osarczuk asked if the study is to satisfy federal concerns about how Riley County is approaching land, or requesting to stay away or are there issues between the different bodies.

Monty Wedel said he doesn't think there are significant issues but there are always concerns. He stated if we enter into another BRAC (Base Realignment and Closure), we want to show we are protecting Fort Riley's ability to carry out their mission. Mr. Wedel explained that it is also protecting citizens who buy property near the base so they are informed of what they are getting.

### **Update on Corridor Overlay Districts**

Bob Isaac stated informational meetings were held on July 21<sup>st</sup> and July 28<sup>th</sup>, to get feedback from the general public and steering committee members of the Gateway Plan and the Eureka Valley – K-18 Plan. He said both plans emphasized and recommended to

create corridor overlay districts to focus on building materials, site design and bulk regulations that the underlying zoning districts do not address.

Mr. Isaac explained the whole emphasis is to try to control the aesthetics of new development and redevelopment occurring within the designated boundaries of each corridor, with an effort to blend the built environment with the natural surroundings in an orderly fashion. He said the overlay criteria also includes such things as landscaping, bicycle racks, pedestrian walkways and connectivity.

Mr. Isaac stated staff met with City planning staff to review the concerns and comments gathered from those meetings. He said the biggest concern from both meetings was “grandfathering”. Mr. Isaac mentioned that Monty Wedel was in the audience. He said he asked if there would be a variance option in unique situations when it would be very difficult for a developer to meet the standards. Mr. Isaac said the City recommended using the “exception” process, of which Riley County currently doesn’t have. He said we will be working with Elizabeth Garvin on this for the regulation update.

### **State of Kansas Agritourism Task Force**

Monty Wedel said he has been asked to help on a task force put together by the Department of Wildlife, Parks and Tourism. He said the task force is made up of legislators, one senator and one representative who has an agritourism business in Shawnee County and who was involved in a lawsuit with Shawnee County. Mr. Wedel said there is a subcommittee that is supposed to meet in a few weeks tasked with generating a proposal. He said they hope the proposal is not all about trying to come up with legislation to mandate municipalities.

John Osarczuk said the state staff member that was on the Riley County Agritourism Task Force was very unhappy most of the time.

Monty Wedel said in the beginning, she came in with a position because she had been fighting with other communities, but in the end, he thought she was happy.

John Osarczuk said in his personal opinion, her position was “no rules, just do what you like”.

Monty Wedel said she has been touting Riley County and how we came up with a good balance and a very good compromise. He said, however, he was starting to realize that Johnson County, Wyandotte County and some of other northeast counties have unreasonable regulations. He said that in the opinion of those counties, conditional uses can only be granted for a certain period of time. Mr. Wedel explained that one county had a request for a winery but the conditional use was only granted for four (4) years. He said the arguments start with how do we invest and what will happen to us. He said he is proposing model regulations for agritourism in a joint effort between the State of Kansas, the Kansas Chapter of the American Planning Association and other such entities.

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

The meeting was adjourned at 8:32 P.M.