

## MINUTES

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

Monday, January 9, 2017  
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: Elizabeth McQuade, Ron & Sharon Brown, David & Nancy Parker,  
Stephanie Manes and Calley Hoffman

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#### **OPEN PUBLIC COMMENTS**

None

#### **CONSENT AGENDA**

The minutes of the November 14, 2016 meeting were presented and approved. The Report of Fees the month of November (\$2,872.50) and December (\$2,965.00) were presented and approved.

Tom Taul nominated to re-elect Lorn Clement, Jr. as Chair. Lorn Clement nominated to re-elect Tom Taul as Vice-Chair. John Wienck seconded. Tom Taul nominated to re-elect Bob Isaac as Secretary of the Riley County Planning Board/Board of Zoning Appeals. The Board unanimously re-elected Lorn Clement, Jr. as Chair, Tom Taul as Vice-Chair and Bob Isaac as Secretary for 2017.

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

#### **BOARD OF ZONING APPEALS**

##### **Parker – Zoning Appeal**

Chairman Clement asked members of the Board to declare any ex parte contact they may have had regarding this item and to declare any conflict of interest or communications they may have had that could influence their ability to be impartial.

All Board members confirmed no ex parte contact.

Chairman Clement opened the public hearing at the request of David & Nancy Parker, petitioners and owners, for a zoning appeal of the denied request for an agricultural exemption to allow for an additional house on a developed tract of land in the "AG" (Agricultural District) zoning designation.

Mr. Wedel stated this is the first appeal for an agricultural exemption. He explained that in 2012, Riley County adopted the Vision 2025 amendments for the new "Agricultural District" which inserted procedures into the zoning regulations for agricultural exemptions. Mr. Wedel said all Planning and Development staff and one Planning Board member, John Wienck, have been administratively reviewing the applications using the criteria in the regulations.

Mr. Wedel said the application for Mr. David Parker was reviewed and the only concern was the proposal that the existing residence would continue to be used as a rental. Mr. Wedel stated that in the past with similar situations, such as the Downey Ranch request, the applicants had an older home that wasn't serving their purposes due to medical issues and the incompatible physical layout of the home (e.g. having very steep, narrow stairways). Mr. Wedel explained that due to the requirement for only one house per tract, staff gave the applicant options to either do a residential designator lot/plat, use it in association to the ranching operation or not occupy the house. Mr. Wedel said that in this case, the applicant chose not to have the home occupied.

Mr. Wedel stated had there been no existing house, Mr. Parker would have been given an agricultural exemption based on the application. Mr. Wedel explained that staff gave Mr. Parker the same options as the Downey's, but Mr. Parker made it clear that he wished to keep the existing home as a part of his agricultural operation and not subdivide the land.

Mr. Wedel suggested to have Mr. Parker come forward to explain his rationale for not being able to use the existing house and not wanting to do a residential designator lot. Mr. Wedel stated that if the Board felt comfortable with granting the agricultural exemption, staff would be fine with their decision. Mr. Wedel explained that staff didn't want to administratively approve the request because it would have been a departure from normal procedure.

Chairman Clement asked Mr. Parker if he wanted to speak.

David Parker stated he was shocked to find out he couldn't build a home on his own land. He said he understood agreed with the purpose of Vision 2025 was to reduce or stop development and subdivision of agricultural land. He said what they are wanting to do is nothing like that. Mr. Parker said that their goal was to build a home for them to live in on land that they own; land that has been in the family for five (5) generations. He said that they selected a site on the property that has never been in production, never been farmed or in grass. He explained that the specific home site was originally part of a lane where cattle traveled from the pasture to the barn to be milked.

Mr. Parker explained that his mother is 94 years old and lives by herself. He said was not sure how much longer that will be possible. He said they would like to have a home that she could live with them and also fit their needs as they become older. Mr. Parker said the existing house was built in 1870 and doesn't accommodate walkers or wheelchairs. He said there are also quite a few stairs involved.

David Parker said they have been in contact with two different organizations about setting up a conservation easement on the property so that it can't be further developed in the future. He stated that the property is where his father lived his entire life; where he grew up and where his brother's ashes were spread. Mr. Parker explained that at the time his father passed away, he was living out-of-state and, since that time, the property has been leased out for farming. He said that about three years later, his mother moved to town and, since that time, the existing house has been rented.

Mr. Parker stated that house and the land both are part of their farm income. They purchased the land from his mother when she moved to town. Mr. Parker said that the materials he provided with the agricultural exemption application demonstrates a bona fide farm operation. He said the issue is the existing home and we were told we could tear the house down or if we had someone living there, they had to be part of the farming operation, such as a ranch hand; either of which would allow for building the other house. He said the farm is not large enough to require an additional farm hand, so that leaves out that possibility. Mr. Parker said if we tear the house down, we lose that source of income that has been supporting the farm for 24 years.

Mr. Parker said everything we have done on this farm was done before Vision 2025 was enacted and we have been told if we plat that off, we can build the house. Mr. Parker said that his thought on that was: if we plat out that 4.1 acres, what we will have accomplished? He said that they would jump through the hoops, spend \$3,000 to \$5,000, and still have the same number of houses on the same number of acres. He said it has also been suggested that having that piece of property with the existing home platted out would possibly be a benefit to our heirs. Mr. Parker said that his thought on that was: who is to say if I plat that it will fit their plans if they decide to sell or whatever? He said that it seemed to him to build a new house once every 147 years isn't really overdeveloping the land and he hoped the Board could see his perspective and grant the exemption.

John Osarczuk asked if the same people have rented the house for 24 years.

Mr. Parker replied no, unfortunately they change.

Chairman Clements asked if there were any proponents.

Stephanie Manes stated she is with the Ranchland Trust of Kansas and they are affiliated with the Kansas Livestock Association. She stated their mission is to preserve agricultural land and help families keep their farms and ranches together.

Ms. Manes said she and Mr. Parker spoke just very recently about his situation. She said the Parker's property fits Ranchland Trust's mission exactly. She said for those who may be not be familiar, situations like these are very common in Colorado, California, Florida and other similar areas. Ms. Manes said that highly scenic, agricultural land has very high development value, but part of that value is the open space, the big prairies and nearby pastures. She said that in those other states, whenever a county prevents development, the landowner is usually compensated by the development fees that are charged in other areas that are approved.

Ms. Manes stated the Kansas Livestock Association feels it is very important to respect private property rights and to compensate landowners if any of their fee title values are taken by regulations.

There were no other proponents or opponents.

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

Diane Hoobler stated her family farms near this property and that she knew Mr. Parkers parents. She said most of the property is in grassland and that a lot of water runs through the property when it rains a lot. She said there isn't a lot of high ground except for one meadow and around the house. Mrs. Hoobler stated that she personally didn't see how they could build a house there except in the meadow, which would take away more agricultural land.

Mrs. Hoobler said the reason why the task force completed Vision 2025 was to protect agricultural land in the county because so much of it was being built up. She stated she is concerned that if the Parkers are allowed to build a house, will the next property owners come along and sell off land to build a house; where will it stop? She said she appreciates that they want to put the land in a conservation easement.

John Wienck said the red flag for him was the rental house, which is not agriculturally related. He said an agricultural exemption is for agricultural and his decision to deny the exemption was based on the rental use of the existing house.

Tom Taul stated the Vision 2025 Committee tried to provide a lot options for property owners. He said since implementation of Vision 2025, the Board has granted numerous extraneous farmsteads all over the county. Mr. Taul stated that he knows, as a land owner, there are options that will work in most situations.

Mr. Taul said you didn't want to plat separately because it might not meet the needs of your heirs. He said this is the root to the reason we put this in there is because we get so many presentations before the Board on what is currently an ideal situation that we have to look at what it will be like in 20, 30 or 40 years down the road. Mr. Taul made the suggestion to wait until the proposed conservation easement is put into place and then come back with the exemption request. He said at that time, we will know there are some guidelines in place.

John Osarczuk asked if the residential use designators have been used a lot.

Monty Wedel stated designator lots were designed for the house and buildings that no longer meet the needs of the farmer to be easily divided out and sold off. He said we want to encourage continued utilization of these older home sites, not tear them down. Mr. Wedel clarified with the Board whether or not, in this case, if the Parkers request an extraneous farmstead and then requested an exemption to build their house, would it be acceptable to give them the exemption.

The Board by consensus agreed to the exemption in that scenario.

Chairman Clement re-opened the public hearing.

David Parker visually showed the Board where he proposed to build the new house and stated it would be on the high side of the creek. He said the area is approximately 20 feet higher than the stream bed, so flooding would not be an issue.

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

Tom Taul moved to affirm the administrative decision denying the request for an agricultural exemption to allow for an additional house on a developed tract of land for reasons listed in the

staff report, as well as the discussion held between the Board members citing the existence of the house that is not being used for agricultural purposes.

Lorn Clement asked that it be noted that an agricultural exemption should not be given due to the existing rental property (house) not being used in conjunction with the proposed agricultural operation.

John Osarczuk seconded. Carried 5-0.

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

## **RILEY COUNTY PLANNING BOARD**

### **Brown – Residential Use Designator – Reconversion Lot & Plat**

Chairman Clement opened the public hearing at the request of Ronald K. Brown, petitioner and Ronald K. & Sharon K. Brown Trust, owners, to receive a Residential Use Designator – Reconversion Lot and plat a 3.3-acre tract of land into one (1) lot in Zeandale Township, Section 21, Township 10 South, Range 9 East, in Riley County, Kansas.

Bob Isaac presented the request. Mr. Isaac described the background, location and physical characteristics of the proposed tract.

Staff recommended approval of the request to receive a Residential Use Designator – Reconversion Lot as it was determined that the request met the minimum requirements of the Riley County Zoning Regulations. Staff also recommended that the Board approve the concurrent plat of Better Than I Deserve Addition, as it was determined that it met all requirements of the Riley County Subdivision Regulations, Zoning Regulations and the Sanitary Code.

Chairman Clement asked if the Applicant wanted to speak.

Ron Brown said his request appears to go right along with the goal of Vision 2025 to preserve agricultural land. Mr. Brown said that Bob Isaac takes customer service to a level that you don't find very often.

Chairman Clements asked if there any proponents or opponents in attendance of the meeting.

Elizabeth McQuade stated she lives directly west of the subject property. She asked if this plat is approved for the reconversion lot, can the remaining property be subdivided into a subdivision or does it have to stay as an agricultural lot.

Bob Isaac stated that the threshold requirement for platting is anything under 20 acres, as per the subdivision regulations. He explained that this subdivision request will render the remaining property less than 20 acres. Mr. Isaac said by rule, it should be platted unless the tract is agriculturally exempted. The next step is to join the remaining property with the tract to the east, into one big tract. Mr. Isaac cautioned that platting approval of Mr. Brown's property did not place restrictive covenant on the property preventing further subdivision for development. Mr. Isaac explained that if someone one wanted to build houses, they would have to go through the standard platting and rezoning process, which would require approval by the Planning Board and the Board of County Commissioners.

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

Diane Hoobler moved to approve the Residential Use Designator – Reconversion Lot and the concurrent plat of Better Than I Deserve Addition for reasons listed in the staff report.

John Wienck seconded. Motion carried 5-0.

Mr. Isaac announced that the Board of County Commissioners will hear the request to plat the property on January 19, 2017, at 9:00 am, in the County Commission Chambers.

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

Monty Wedel informed the Board that the project has been delayed due to Elizabeth Garvin having surgery. He said he is hoping to have a draft this month or early February. Chairman Clement asked staff to extend well wishes from the Board.

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

Monty Wedel stated the Manhattan Urban Area Planning Board and the City have adopted the plan and have incorporated it into their comprehensive plan. He said staff is done with this project.

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

Monty Wedel stated public meetings will be January 31<sup>st</sup> and February 1<sup>st</sup> in Manhattan and Junction City.

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

Monty Wedel stated this project is on hold until Elizabeth Garvin has the first draft completed.

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

Monty Wedel said he believes there will be one more meeting.

#### **Pictometry Training**

Monty Wedel said pictometry training is being offered if any of the Board members are interested. Bob Isaac provided the Board with a demonstration and several Board members indicated they would like to attend the training.

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

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