

MINUTES

RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Monday, April 10, 2017
7:30 pm

Courthouse Plaza East
Commission Meeting Room
115 North 4th Street

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

Members Absent: John Osarczuk

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

Others Present: Larry Larson, Jeffrey Hancock, Gary Hargrave and Galen Fink

OPEN PUBLIC COMMENTS

None

CONSENT AGENDA

The minutes of the March 13, 2017 meeting were presented and approved. The Report of Fees the month of March (\$5,576.50) were presented and approved.

Tom Taul 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 4-0.

BOARD OF ZONING APPEALS

Para-Dice Properties LLC – Variance

Chairman Clement opened the public hearing at the request Para-Dice Properties, LLC, petitioners and owners, for a variance authorization to reduce the rear yard (building setback) requirement from 25 feet to five (5) feet.

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.

Bob Isaac presented the request stating the applicant wished to construct a single family residence. He explained the lot was recently replatted to correct errors on the original plat.

Mr. Isaac stated due to the lot having two 25-foot front yard setbacks, the applicant was seeking a variance to reduce the rear yard (building setback) requirement from 25 feet to five (5) feet in

order to maximize the buildable area of the lot without bringing the proposed structure closer to a road. Staff recommended approval of the requested variance based on the evaluation of variance criteria listed in the staff report.

Chairman Clement asked if the Applicant wanted to speak.

The Applicant did not wish to speak.

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 for a variance authorization to reduce the rear yard (building setback) requirement from 25 feet to five (5) feet.

John Wienck seconded. Carried 4-0.

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

RILEY COUNTY PLANNING BOARD

Baumgartner – Plat & Rezone

Lorn Clement opened the public hearing at the request of Darell S. Baumgartner, petitioner and owner, to rezone a tract of land from "AG" (Agricultural District) "R -PUD" (Residential Planned Unit Development) and plat the said tract of land into a single lot in Jackson Township, Section 9, Township 7 South, Range 6 East, in Riley County, Kansas.

Bob Isaac presented the request stating the unplatted tract was recently subdivided from the parent tract. He explained the subdivision prompted Riley County Planning and Development to contact the applicant, informing him that, unless the property was determined to be agriculturally exempt, it would need to be platted and perhaps other action, depending on the proposed use of the site.

Mr. Isaac said Planning and Development investigated the site and found that it was being utilized as an RV Park/temporary lodging for the seasonal hunting activity occurring at the site. He said that following discussions with the property owner revealed the property was purchased for hunting. Mr. Isaac explained that the owner would like to invite friends and family to partake in the seasonal activity of hunting, however, the majority of the folks would travel to the site in recreational vehicles (RVs) and wish to utilize their RVs as temporary lodging.

Mr. Isaac said staff advised the property owner that the described activity constitutes an RV Park, which requires conditional use authorization in the AG zoning district. The property owner continued by stating that he would also like to eventually construct a single family residence and phase out the RV park upon its completion. Mr. Isaac said that staff advised the applicant that, rather than obtaining a conditional use for the private RV Park and a separate Residential Use Designator approval for a residence, a Residential Planned Unit Development be utilized.

Mr. Isaac stated that there will be some clearing of cedars, but the majority of the site will not be visible from K-77. He said the existing and future road network occurring on-site, including parking areas, shall be improved and maintained with all-weather surfacing, so that emergency

response vehicles and RVs can safely and effectively traverse the site. Mr. Isaac said the tract directly east of the subject property was recently rezoned to a “C-PUD” (Commercial Planned Unit Development) for an Outdoor Adventure School.

Mr. Isaac reviewed the preliminary development plan stating that although a natural buffer of trees, other vegetation and a rock wall currently exist along the south property line of the subject site, it was advised that an Agricultural Buffer be established, with a reduction from 200 feet to 50 feet. He said due to the proposed home, an Agricultural Protection Easement will be required to be filed with the plat. Mr. Isaac then reviewed the following:

List of Permitted Structures:

1. One (1) Single Family Residence
2. Accessory structures ancillary to residence
3. Two (2) shipping/storage containers

List of Permitted Uses:

1. RV/Camper Park (private use only) – limited to three (3) full service slips
2. Hunting grounds
3. One (1) single family residential and accessory uses
4. Keeping of stock animals (max. one per acre)
5. Home Occupations (as per the Riley County Zoning Regulations)

Notes:

- Shipping/Storage containers shall be situated on the property in such a way that will utilize trees and other natural features to screen the containers from view along Highway K-77.
- RVs, campers and/or shipping/storage containers shall not be used as or converted into permanent residences.
- Upon completion of the construction of the single family residence, RV Park shall be eliminated.
- Driveways serving the park shall consist of all-weather surfacing and shall be maintained to meet or exceed the minimum vertical 13.6 feet clearance and minimum width of 20 feet.
- Owners shall resurface and maintain all drives and parking areas so as to be traversable by visitors and emergency vehicles.
- Directional signage shall be provided at appropriate points to assist visitors and emergency responders.
- Site shall be in compliance with the Riley County Sanitary Code.
- Current stormwater drainage patterns shall not be altered as to negatively impact surrounding properties.
- There are no areas to be dedicated for public use.
- Mobile homes are prohibited.
- Business and Advertising (billboard) signs are prohibited.

- The building setback along K-77 shall be a minimum of 50 feet from the west right-of-way line or a minimum of 150 feet from the centerline of the roadbed; whichever is greater.
- Prior to any construction or placement of structures on the property, an approved entrance permit shall be obtained from the Kansas Department of Transportation (KDOT).
- The Agricultural Buffer, as shown, shall be subject to the minimum requirements of Section 21C – Development Standards of the Riley County Zoning Regulations.

Schedule of Improvements:

1. Installation of wastewater lagoon – Fall 2017
2. Installation of full service RV/camper slips – Fall 2017
3. Construction of single family residence – Spring/Summer 2022

Staff recommended that the Planning Board approve the request to reduce the Agricultural Buffer from the required 200 feet to 50 feet as part of this request. Staff also recommended the Planning Board forward a recommendation of approval to the Board of County Commissioners of Riley County to approve the request to rezone the proposed property from "AG" (Agricultural District) "R -PUD" (Residential Planned Unit Development) based on the following:

- The predominant use of the tract will remain undeveloped open space; any land not developed will be left in a natural state;
- The development of the site has shown on the site plan will be minimal, creating little or no impact on stormwater run-off;
- The proposed development is in general conformance with the Comprehensive Plan.

Staff also recommended the Planning Board approve the Concurrent Plat of Baumgartner Deer Camp, as it was determined that all requirements of the Riley County Subdivision Regulations, Zoning Regulations and Sanitary Code have been met.

Tom Taul said the development plan mentions that RVs, campers, and storage containers shall not be used or converted into permanent residences. He asked what constitutes a permanent residence or is there a certain length of time?

Bob Isaac replied the current regulations define temporary as 180 days and the RVs would be difficult to track because of being mobile. Mr. Isaac stated that usually you can tell if homesteading is happening by skirting and a few other things.

Mr. Taul verified if it were the days were consecutive.

Mr. Isaac replied yes.

Mr. Taul asked if was written down somewhere.

Mr. Isaac said it is in the zoning regulations.

Diane Hoobler wanted to know the reason for the request in reduction of the agricultural buffer.

Bob Isaac said similar to the request on the other side of the highway, there is a hay meadow and adequate protection along with a six (6) or seven (7)-foot rock wall.

Chairman Clement asked if the Applicant or a Representative was present.

Jeff Hancock with SMH Consultants stated he was representing the Applicant and said Mr. Isaac covered everything pretty well.

Chairman Clement asked if there were any proponents. There were none.

Chairman Clement asked if there were any opponents within 1,000 feet of the site.

Galen Fink stated he has property towards the south of the proposed site, but the property owner directly south of the subject site wasn't present. Mr. Fink said the rock wall was in horrible repair and only stands in a few places; it otherwise has crumbled down. He stated he had concerns if this site turned into a hunting site then what kind of fence would be installed. Mr. Fink asked it was mentioned one animal per acre, does that mean deer be kept on the site.

Jeff Hancock replied the Applicant will not fence in deer but allow them to come on the property naturally.

Galen Fink said this is a question that several of us had, so this is not so that deer will be fenced on the property.

Jeff Hancock replied no.

Galen Fink asked if this would this go on record.

Lorn Clement replied it would be in the minutes.

Mr. Fink asked once you get that many RVs in there and hunting season ended a long time ago, what is being done for sewer. He said another concern was fire with all the cedars. He said that you say the fire department is down the road but he suggested a fire break because it's a hindrance to neighbors to have to put up with everybody moving in and doing things like that.

Mr. Fink said he has cattle with decent value in them and if one gets accidentally shot, they will pay for it. He said there will be no beating around the bush, somebody will be sued and it will be at a value they will not like.

Mr. Fink said regarding the proposed house that we have no guarantee it is not going to be a hunting lodge for a bunch of good ol' boys to come party all night, go out the next morning and sit in the tree stands half lit. He asked what exactly what are we creating here.

Bob Isaac stated he wanted to clarify what was displayed on the screen for permitted uses and permitted structures is what would be allowed. He said they would not be allowed to do anything else unless it was listed on the development plan; otherwise, an amendment would need to be done. Mr. Isaac stated if someone has a single family house, invites someone over and whether or not they drink is really immaterial to this request.

Mr. Isaac referred the Planning Board members to the PUD and to a note that indicated the Riley County Rural Fire Chief had reviewed the request. He said the Fire Chief recommended a note be added requiring a 30-foot setback buffer from any house, garage, RV or storage container must be met.

Larry Larson stated he is the Trustee for Jackson Township and asked what the Confined Feeding Animal Feeding Operation map has to do with this request. Mr. Larson said there is a

pad-lock on the gate to this property and asked will it always be locked in case of fire or other emergency?

Bob Isaac said usually places of assembly or for commercial structures are subject to the State Fire Code. He said a Knox-Box may be used on gates. Mr. Isaac explained the CAFO map was accidentally included and simply shows location of existing or former confined animal feeding operations. Mr. Isaac stated that although a mistake, it served to illustrate there is not an issue with a locating a house too close to a confined animal feeding operation. He apologized for any confusion.

Larry Larson said it looked like it was going to be a deer operation.

Bob Isaac replied no, it is just to hunt deer.

Jeff Hancock stated he wanted to make it clear to the Board that this is a personal, recreational site for the Applicant to do his archery deer hunting on. He said the two neighboring tracts to the south on either side of the highway and the tract to the west are all in the WIHA Program which is the Walk-In Hunting Access program.

Mr. Hancock said the lock on the gate is simply to keep others off the property since the owner is in Texas. He explained the only animal feeding happening is the deer feeders. He said the shipping container is being used to store the feeders, feed and other hunting supplies.

Galen Fink asked what the sewer situation was for the RVs.

Jeff Hancock replied the owner was on and off site over a three week period during hunting season last year. The owner would take the RVs to the State Park dumping station to empty and fill up with water. Mr. Hancock explained the permanent solution for sanitary sewer will be a lagoon when the house is built. He said the RVs are there now because it's a convenient place to store them as this is where they will be used. Mr. Hancock explained the owner doesn't want to have to haul them back and forth from Texas all the time and is most likely why the pad-lock is on the gate.

Gary Hargrave said he is the Jackson Township Treasurer and uncle to Nick Hargrave who is the property owner directly south of this site. He said you say 180 days on those trailers and asked who is keeping track, because they have been out there more than 180 days now. Mr. Hargrave asked if the owners takes them down to the park to empty and parks in a different spot when he returns, does the 180 days start over. He asked if there are any guarantees that in five (5) years he will build a house/hunting lodge.

Mr. Hargrave stated he bales hay on 160 acres west of his property and that property owner built a big hunting lodge. He said he didn't have to come before this Board and got to leave it zoned agricultural. He said there are many people who use that hunting lodge, so is this what this is going to be? Mr. Hargrave asked how many people are going to use this and how many of his friends from Texas are going to come use it. He stated you call it a single family dwelling but I don't think it will be a single family dwelling.

Chairman Clement replied it is 18 acres.

Gary Hargrave asked how many different people are going to be using it when he is not there.

Chairman Clement said I don't think we can know that for sure.

Gary Hargrave replied that is because he (applicant) is not here to answer any questions but through a third party.

Bob Isaac stated he wanted to clarify the 180 days and the question came up about converting into a permanent residence. Mr. Isaac said an RV is an RV and their facilities are built-in; self-contained. He explained there will be a maximum of three (3) permanent RV slips. He said there is no condition that he has to build a house. Mr. Isaac said the request is an action to abate a current zoning violation. He explained that while an owner is working through the abatement of a violation, such a rezoning, they don't have to act immediately to abate the violation. Mr. Isaac explained that the owner is working through the process of getting official permission to continue doing what they are doing. Mr. Isaac said he wanted to make it clear the temporary status doesn't apply to RVs if the request is approved.

Mr. Isaac reiterated that the request is for a private, not public, recreational outdoor area which is not even 18 acres that has to be platted, with a late conversion to a single family residence. He said Riley County has zoning enforcement; if it is found that the proposed home is something other than single family residence, enforcement action will be taken. Mr. Isaac stated it specified in the tailor-made zoning district, R-PUD what is permitted and hunting lodge is not listed. The RVs are being used for temporary lodging but once the house is built, the RVs will be eliminated.

Jeff Hancock said you would have to take his word that the owner's intent is to hunt this property with a few of his friends. He said he doesn't have any intentions of using this as a commercial deer hunting project. Mr. Hancock said he specifically asked the applicant, of all the hunting places in Texas, why come here and he replied, the deer are bigger here. Mr. Hancock said the applicant said he simply wants to shoot a big deer, this is hobby and right now he needs to park two (2) to three (3) trailers there to do it, just like all of us like to do things with our friends. Mr. Hancock said in the future, if things work out, the applicant and his wife would like to build a house there. Mr. Hancock said that the applicant explained the reason he added the home to the development plan now was because he didn't want to have to come back to do an amendment.

Galen Fink stated he hoped they all realized this was going to be used as a center stage with all the public hunting land and there was not enough deer on that 18 acres to shake a stick at. He said he will guarantee that, even with a deer feeder there. Mr. Fink said it is a center point so they can fan out in all the public hunting. He said if you all think this is something being put together for someone to hunt 18 acres, he doubted it.

Tom Taul moved to close the public hearing. Diane Hoobler seconded. Carried 4-0.

John Wienck asked when the 180 days started or when did it start.

Bob Isaac replied the RVs are not considered temporary and explained right now it is considered a violation. He said the question earlier was the conversion of the storage unit/shipping container into a permanent residence and the clarification of what is temporary. Mr. Isaac said even though it is private, it is still considered an RV Park and it is a violation which needs a conditional use. He explained the Applicant mentioned he wanted to eventually build a house, so those options were explored. He said the best option at that site would be a residential use designator for an isolated home-site. Mr. Isaac said the conditional use and that particular residential use designator each required a site plan, so staff advised the Applicant that instead of

having one go to the Board of Zoning Appeals and one to the Planning Board that there be one site plan that combined the uses, hence the R-PUD option. Mr. Isaac said if the request would be approved, it would make it legal for the Applicant to have three (3) full service slips on a permanent basis. He said staff is more concerned with the storage containers being converted into houses.

Tom Taul said he looked through his notes and wondered how 18 acres could be hunted and believes the hunters will fan out to hunt the other areas. He said he didn't have issues with the three (3) slips but the property owner said his intent was to bring friends up during hunting season which is a pretty limited window. Mr. Taul said if you allow the RVs to sit there all year round there will be chance for them to become permanent residences. He said that is why he asked about the 180 days because the property owner could have someone live in one to look after the place.

Mr. Taul stated whenever you have an absentee owner, their intent is good but things change and things happen. He said though it was great that they included the house, he said he felt a time limit or review of the request again in five (5) years would be appropriate. Mr. Taul said every time he drives Highway 24 and sees the house that has been under construction for 15 years, time limits need to be established. He said to leave things open ended is too vague.

Chairman Clement asked would specifying a time limit to the Notes, items 2 concerning the conversion to permanent residences help.

Mr. Taul stated that no one is going to be able to monitor if people are in and out all year long. He wanted to know why the RVs need to be there all year if the intent is to just use them for deer hunting season. He said he understood not wanting to drive them back and forth but with seasonal activity it wouldn't be too much.

Chairman Clement reopened the public hearing.

Jeff Hancock stated as far he knew the property owner hadn't been back since the deer season ended. Mr. Hancock stated the owner is involved in real estate, travels a lot and hasn't made his way back to pick up the RVs.

Chairman Clement asked Mr. Hancock if the property owner would be agreeable to a time limit.

Mr. Hancock asked a time limit on when to build the house.

Chairman Clement said a time limit on the RVs.

Mr. Hancock stated he didn't feel he could answer that question. He said the Board could request a condition and he would visit with his client before proceeding to the Board of Commissioners. Mr. Hancock stated that if someone would be living there, mostly likely it will be reported and investigated.

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

Bob Isaac said the RVs and shipping containers will be situated so they won't be seen from the highway and each RV will hooked into a lagoon so it would be difficult to monitor. He said it would be an enforcement nightmare trying to determine when they show up and when they leave. Mr. Isaac stated placing a time limit may not be very effective.

Tom Taul asked if the Board would consider specifying a date range that would cover the entire deer season such as September 15 through January 15.

Chairman Clement stated the site is not good for agriculture, its private property and will be out of sight. He said this Board would be recommending approval to the Board of County Commissioners so he is in favor of approving the request as presented.

Bob Isaac said the across the highway is an outdoor adventure school that has six (6) RV slips and there were no issues. He said the definitive difference is these will be full service which could raise the concern that someone could live in them full-time. Mr. Isaac said as to restricting it just to deer season, what if he wants to come up during the summer to fish or to hunt something else. He stated it is a central spot and he is not required to contain his hunting activities within the borders of his property. Mr. Isaac said the subject site is right next to U.S. Corps of Engineers property – an outdoor recreational area.

Chairman Clement inquired if any member was ready to make a motion.

John Wienck asked we can't control when the house will be built.

Diane Hoobler asked when the lagoon would be required to be built.

Bob Isaac replied according to the schedule, Fall of this year.

Chairman Clement inquired again if any member was ready to make a motion.

Tom Taul stated he was not in favor of the request but it could work. He said there were a lot of things that needed to be in writing so there wasn't ambiguity and we have an absentee property owner. Mr. Taul said he also took exception to bringing to up what was done across the road. He stated if that request was here before the Board now, he wasn't sure he would support it today. Mr. Taul said it was getting too big and too many things going on. He said there is the ORV Park, the adventure camp and now this request and all have ambiguity in them. Mr. Taul stated we know what enforcement is like and when there is a violation to get everything from Point A to Point B to get something done.

Mr. Taul said he did appreciate Mr. Isaac bringing up that the Applicant might want to come up to go fishing. He said that was valid and hadn't thought about that aspect. Mr. Taul said when he requested the RVs be there only during deer season, that isn't fair to the Applicant. He stated this is a recreational area and he could bring up an ORV vehicle and go over to the ORV Park. Mr. Taul said his biggest concern is an absentee owner and stuff just sitting there.

Chairman Clement said it is his property and he was trying to comply with our regulations and codes. He stated he thought he should get some credit for that.

Diane Hoobler asked if the storage containers could be removed when not being used.

Bob Isaac stated there is a subdivision violation and has to be platted. He explained there was a conditional use request for a private RV Park for three (3) slips which will be screened with plenty of land.

Tom Taul said our focus is on the best use of the land. He said he had gotten caught up on the owner and a few other things which do concern him. Mr. Taul said our job is to deal with the

use of the land; it isn't good for agricultural. He said I am still uncomfortable but someone else may make a motion.

Chairman Clement stated he was in favor of the request but as Chair, he couldn't make a motion.

Diane Hoobler asked how many other hunting areas like this were around because somewhere there is a lodge near Ober Road.

Bob Isaac replied it is definitely a hunting area.

Diane Hoobler replied she was asking about hunting lodges.

Mr. Isaac replied the Applicant was not proposing a lodge.

Diane Hoobler said but the RVs have the same affect.

Mr. Isaac replied, if you go down the road to the State Park, you have the same thing right there, in the same area along the lake. He said if this request was over by Leonardville he would question it, however, this is not an agricultural area and there is a line of distinction between the pasture ground and the woods.

Mr. Isaac reiterated this particular tract is not agriculture. He said again this was for three (3) slips not open to the public and to please keep that in mind.

Chairman Clement replied very small scale.

Diane Hoobler confirmed before the RV slips could be put in the lagoon had to be put in.

Mr. Isaac replied absolutely.

Jeff Hancock said he had a question.

Chairman Clement verified with the other Board members and re-opened the public hearing.

Mr. Hancock asked couldn't he build a metal building on the site today under the ag zoning regulations.

Mr. Isaac replied for agricultural purposes, yes.

Mrs. Hoobler replied but he doesn't have any agricultural purposes.

Mr. Hancock said if he was farming acreage next to the site, he could build an outbuilding, it didn't have to be the particular tract of ground. He said the point of contention is the screening, metal buildings etc. Mr. Hancock stated if he had those trailers parked in a building, no one would even know what was going on. He said he thought the Applicant was trying in good faith effort to comply with the zoning regulations. Mr. Hancock said if he had applied for a building permit for an ag building and parked those RVs in there, no one of would have known what was going on.

Mr. Hancock said he agreed that you can't really hunt a whole lot on 18 acres but one of his points he makes is, everyone else is hunting around him but nobody can hunt his 18 acres. He said the Applicant looks at it like he has his own sanctuary where the deer can come to and only he can hunt them. He said if there is a screening issue, it could be addressed.

Gary Hargrave stated you say this is private use, then why does he need three (3) slips for trailers.

Chairman Clement replied it is his private business.

Gary Hargrave said you call the house a single family dwelling and calling the trailers hunting lodges.

Chairman Clement said he didn't think they were called hunting lodges.

Bob Isaac clarified the use will be temporary lodging.

Chairman Clement said it is how you interpret "lodge". He said we have guest houses and friends come stay in our guest houses; so that could be a lodge depending how you read it. He stated it is private business on private property. Mr. Clement said it is small scale, the Applicant is trying to do the right thing and it is his private property and he was in favor as it stands.

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

Diane Hoobler moved to recommend approval of Petition #17-10 (rezoning) for reasons listed in the staff report and moved that the Board approve Petition #17-11 (plat).

Chairman Clement asked for a second and as Chairman, he didn't believe he could second the motion.

Due to a lack of a second to her motion, Diane Hoobler moved to table the request until all Board members were in attendance and it would more time to think over the request.

Bob Isaac explained that even if John Osarczuk comes to the next meeting, the public hearing had just been completed without him and would not be able to participate in the final decision.

Chairman Clement said there wasn't another choice but to state the motion failed due to a lack of a second.

Bob Isaac asked the Board if there was some language that could be placed on the development plan that would make the Board more comfortable or address any concerns with the development. Mr. Isaac said we have addressed screening; that this particular development will not be taking any land out of agriculture production; that the request will not be impacting surrounding agricultural operations; that there will be an agricultural buffer included, which doesn't mean the reduction for 200 feet to 50 feet has to be approved; and that there will also be an Agricultural Protection Easement required to be filed with the plat. Mr. Isaac said he contacted KDOT concerning the entrance and they were fine with the upgrading the existing access via permit. He said the development plan limits the number of slips to three (3) and will not be open to the public. Mr. Isaac stated we've discussed screening and cautioned that what you see now in the photos will not be there. He said the development plan includes setbacks and notes requiring that the RVs and shipping containers be situated as to not be seen from the highway. Mr. Isaac asked if there was anything else that he was missing to make it more compatible.

Tom Taul said he came tonight with the thought, you can't hunt on 18 acres and there was where his negativity started. He said after listening to all the input, he said he had to be fair. He said he couldn't make a motion to not approve the request and didn't have true basis that would be

defensible. Mr. Taul said the Applicant had met the requirements of the R-PUD by platting, putting in a lagoon and screening. He said he couldn't make a motion to deny based on the fact he didn't like it. Mr. Taul said if he made a motion of denial, which honestly in good faith couldn't do and not put the Applicant in different criteria than someone else and haven't been able to figure it out. He said we need to address it for land use, for betterment for the community. Mr. Taul stated it is a recreational area and it isn't good for agricultural.

John Wienck stated he had a hard time with the request from the very beginning and had heard too much from the public. Mr. Wienck said it looked good but there were so many things that could go wrong that he would feel better if the Applicant would be building the house next year instead of six or eight years down the road. He said he understood this was private property but the perception of the trailers being called hunting lodges or guest houses, what would keep this house from being used as a lodge. He stated he knows of other properties throughout the county that are not single family dwellings being used as lodges.

Mr. Wienck stated that deer hunting in northern Riley County had gotten blown clear out off the map. He said there are people like the Applicant, people from Pennsylvania and all over that come in, take agricultural land and not use it as agricultural land. Mr. Wienck said this stair steps to the appraisers office that land not used for agricultural use is taxed recreational commercial tax use.

Mr. Wienck stated this Applicant has over 200 acres on Swede Creek and uses it for deer hunting. He said he also has land that he leases out from other people for recreational use. Mr. Wienck stated his personal feeling was he had a bad taste and it had happened to his family. Mr. Wienck said anymore you just want to keep as many people out that are not a native of the area. He stated he knows that was not fair and should not make it personal. He said it is the Applicant's land, but he wasn't going to just hunt that 18 acres.

Chairman Clement replied the trailers are temporary lodging. He said he should have asked before opening the public hearing if any Board member had any declarations to make, any exparte communications or be not able to make an honest, objective decision on this request. He asked John Wienck if he wanted to make any.

Mr. Wienck said he already stated how he felt and that it needed to be screened immediately.

Bob Isaac asked the Board members to refer to page 6 of the staff report and if they were having difficulty arriving at a reason to make a motion, the list was provided there. He said the list is based on the Golden vs. Overland Park, KS Supreme Court case.

Tom Taul stated he had already been looking through the list and couldn't find a reason to deny the request as it doesn't meet any of them.

Bob Isaac stated because this is a PUD and not conventional zoning, if there is a way to address a particular concern by putting a note or use limitation on the plan, it could be done.

Mr. Taul replied you make the mark right there. What difference does it make if he parks three (3) RVs there that we have control over or he could haul them down the road to the State Park and do the same thing. Mr. Taul said he would second the motion.

Diane Hoobler moved to recommend approval of Petition #17-10 (rezoning) for reasons listed in the staff report and moved that the Board approve Petition #17-11 (plat).

Tom Taul seconded. Motion carried 4-0.

Mr. Isaac announced that the Board of County Commissioners would hear the request on May 1, 2017, at 10:15 am, in the County Commission Chambers.

Update on Zoning and Subdivision Regulations re-write

Bob Isaac said the Land Development Regulations (LDR) consultant, Elizabeth Garvin, will present the first draft of Articles 1-3 and Article 9 of the new Land Development Regulations on May 11th to the Board of County Commissioners at 11:00 a.m. and to the Steering Committee that night at 7:00 p.m. He stated the draft should be ready for review and posted on the website the first of May.

Update on Fort Riley Joint Land Use Study

Bob Isaac stated a Community Workshop will be held on May 4th in Grandview Plaza and provided a link to an online survey, stating participation was very much encouraged.

John Wienck moved to adjourn. Tom Taul seconded. Carried 4-0.

The meeting was adjourned at 9:20 P.M.