

MINUTES

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

**Monday, April 11, 2022
7:30 pm**

**Courthouse Plaza East
Commission Meeting Room
115 North 4th Street**

Members Present: Diane Hoobler, Chair
John Wienck, Vice-Chair
Joe Gelroth
Nathan Larson

Members Absent: Rita Cassida

Staff Present: Amanda Webb – Director, Bob Isaac – Planner and Lisa Daily -
Administrative Assistant

Others Present: None

OPEN PUBLIC COMMENTS

None

CONSENT AGENDA

The minutes of the February 14, 2022 meeting were presented and approved. The Report of Fees for the month of February (\$3,500.00) and March (\$4,639.00) were presented and approved.

John Wienck moved to approve the consent agenda. Joe Gelroth seconded. Carried 3-0 with Nathan Larson abstaining.

Joe Gelroth 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. John Wienck seconded. Carried 4-0.

RILEY COUNTY PLANNING BOARD

Amendments Land Development Regulations for Riley County, Kansas

Bob Isaac presented the request stating that on December 6, 2021, the Board of County Commissioners adopted the Land Development Regulations for Riley County, Kansas, which became effective on January 1, 2022. Mr. Isaac stated that unfortunately, soon after the effective date, it was discovered some adjustments were needed that were beyond staff's administrative authority to change.

SECTIONS 4.8, 4.9 and 4.10 (SF-1, SF-2 and SF-3, TF, MF and AG-RUD DISTRICTS)

Notes: [5] Setback increases one foot for every one foot of building height over 16 feet.

Mr. Isaac explained that staff had originally included this requirement to supplement the side yard setback for buildings that exceeded the average height of 16 feet. He said it was discovered that after accounting for two feet of foundation wall, 8-10 feet per floor, space between floors, and the pitch of a roof, the average height of a typical single-family residence was actually

between 20-35 feet measured on a single elevation. He said this requirement is considered impractical, unreasonably short. Mr. Isaac said through discussions with the consultant, it was recommended to delete this standard.

SECTIONS 4.9 and 4.10 (SF-2 and SF-3 DISTRICTS)

Tables 4.5 and 4.6: Dimensional standards

Side: 10% of lot width; *but not to exceed 10 feet.*

Mr. Isaac explained the previous zoning regulations attempted to accommodate smaller lots by allowing the side yard building setback to be a percentage of the lot width, rather than a set number (e.g., 10 feet). He said unfortunately, the cap limiting the setback to a maximum of 10 feet was mistakenly omitted. Staff recommended adding the language “, *but not to exceed 10 feet*”, to the side yard setback language for Tables 4.5 and 4.6.

SECTION 5.2 – USE-SPECIFIC STANDARDS

AD. Short-Term Rental

3. Licensing Requirements

- a. *As of the effective date of these regulations, as amended (date), it shall be unlawful for any person to operate ~~and or advertise~~ any short-term rental without a valid short-term rental license, as approved pursuant to the application procedure herein.*

Mr. Isaac stated staff originally presumed that, following the adoption of the new Land Development Regulations, existing short-term rentals (Airbnb, VRBO, etc.) would be “grandfathered” and, like agritourism facilities that existed prior to the adoption of the licensing requirement for agritourism facilities, would not be required to be licensed and essentially be considered legal nonconformities. He said it was thought that as a pre-existing use, it would fall under Section 1.16 – Transitional Provisions, B. Uses, Structures, and Lots Rendered Nonconforming, which states:

“Except as specifically provided in these Regulations, if any use, building, structure, lot, or parcel that legally existed on the effective date of these Regulations does not meet all standards set forth in these Regulations, such use, building, structure, lot, or parcel shall be considered a legal nonconformity and shall be controlled by [Section 5.6, Nonconformities.](#)”

Mr. Isaac said that, following discussions with the Deputy County Counselor, it appears that it was expected by the Board of County Commissioners that, upon adoption of the new Land Development Regulations, all short-term rentals, whether new or already established, had to be licensed and be subject to the licensing standards. He said to be consistent with the standard listed in the above referenced Section 1.16 – Transitional Provisions, “Except as specifically provided in these Regulations...,” it was recommended to insert a provision marking the official date when the licensing requirements will become applicable for all short-term rentals. Mr. Isaac stated that the Board of County Commissioners agreed with this approach but suggested allowing one (1) year for existing short-term rentals to come into compliance with the new regulations.

Mr. Isaac also noted that the current language states that the current language of the regulations prohibit any person from operating or advertising any short-term rental. Staff believes that the

County has no authority to police the act of advertising, regardless of content. Staff recommends deleting the text “and or advertise” from the regulations.

4. Standards

- k. A room shall not be used as a bedroom unless it has ~~a window~~ *at least two (2) independent points of ingress/egress, one of which may be an egress window. For residential structures built prior to the effective date of these regulations, an egress window shall have a minimum clear opening width and height of 18 inches, a minimum total clear openable area of 4 square feet, and a maximum sill height above floor level of 48 inches. Permanently installed step(s) may be used to attain maximum sill height. Such step(s) must have a minimum tread of 12 inches and a maximum riser height of 16 inches. Residential structures built after the effective date of these regulations shall have a minimum net clear opening height dimension of 24 inches, a minimum net clear opening width dimension of 20 inches and a minimum net clear opening of 5.7 square feet. The net clear opening dimensions shall be the result of normal operation of the opening.*

The minimum horizontal area of a window well shall be 9 square feet, with a minimum horizontal projection and width of 36 inches. The area of the window well shall allow the emergency escape and rescue opening to be fully opened. Guards or covers shall be provided to safeguard against falls into the window well.

Mr. Isaac explained although Riley County does not have building codes, certain uses or circumstances may require additional standards to address potential concerns for public health, safety and welfare. He said the Riley County Sanitary Code specifies that a bedroom must of two points of ingress/egress, which may include a window; however, the purpose of defining what constitutes a bedroom is used to calculate how large the septic system needs to be. Mr. Isaac explained that the current language in the Land Development Regulations states that “*a room shall not be used as a bedroom unless it has a window.*” The Riley County Planning Board suggested that the requirements listed in the Land Development Regulations should be more consistent with the safety standards of the International Residential Code (IRC) for a room to be used as a bedroom. Staff recommends approval of the amendment as written.

Article 9 – DEFINITIONS

Window, egress

An egress window is a window that is intended to provide an emergency means of exiting a dwelling. Windows must meet specific size requirements to qualify as an egress window.

Staff concluded that it was important to add the definition of an egress window to Article 9 - Definitions. The above definition specifies the difference between an egress window and any other type of window, in reference to the standards for short-term rentals.

Staff recommended that if the Planning Board finds the text amendments to the Riley County Land Development Regulations acceptable, the Board should forward a recommendation of approval to the Board of County Commissioners to adopt the proposed amendments as published.

Joe Gelroth moved to forward a recommendation of approval to the Board of County Commissioners to adopt the proposed amendments to the Land Development Regulations.

Nathan Larson seconded. Carried 4-0.

Mr. Isaac announced that the Board of County Commissioners would hear the request on May 2, 2022, at 9:20 am, in the County Commission Chambers.

Annual Report

Bob Isaac presented the annual report to the Board. He explained how much development has occurred inside and outside of a designated growth area. He explained that one of the primary objectives of the Comprehensive Plan was to have most of the non-agricultural residential development occur within a designated growth area. He explained that although it appears that the majority of the development that occurred in 2021 occurred outside of a designated growth area, several factors demonstrate that such development still met the goals and objectives of the Plan.

Nathan Larson asked about the type of signs that require a permit.

Mr. Isaac brought up the Land Development Regulations for Riley County, Kansas, specifically, Section 6.12-Signs, and explained that certain signs were exempt from the regulations.

Mr. Larson asked if there was anything the regulations could do about signs displaying vulgar language.

Mr. Isaac explained that we can restrict size, shape, brightness, etc. of a sign, but we cannot regulate content.

Diane Hoobler mentioned there are several billboard signs poles that are needing maintenance along Highway 24. She also asked about why soil profiles were done.

Mr. Isaac stated that Planning and Development enforces the maintenance of billboards through the Land Development Regulations. Mr. Isaac also stated that soil profiles are done to determine what type of wastewater system can be installed.

Mr. Isaac suggested that the Board members to review the Annual Report along with the Land Development Regulations and if they have any questions to contact staff to bring it up for discussion at the next meeting.

Annual Review of the Comprehensive Plan

Bob Isaac stated the Board needs to review the Executive Summary and provide any feedback to staff on how the plan is working or not working.

Amanda Webb stated besides the annual review, staff will be embarking on an actual update to the Plan. She said staff is working on a presentation that will be presented to this Board and the Board of County Commissioners.

Mr. Isaac said the annual review should be completed by the end of July.

Diane Hoobler stated she thinks the Plan is working well.

Mr. Isaac asked the Board to review the Executive Summary and the Annual Report for future discussions. He said from his perspective, there certainly seems to be a lot less urban-rural conflict since Vision 2025 was adopted.

John Wienck moved to adjourn. Joe Gelroth seconded. Carried 4-0.

The meeting was adjourned at 8:52 P.M.