

MINUTES

RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Monday, October 11, 2010
7:30 pm

Courthouse Plaza East
Commission Meeting Room
115 North 4th Street

Members Present: Lorn Clement, Vice-Chair
Dr. Tom Taul
Julie Henton
Diane Hoobler

Members Absent: Jon Larson, Chairman

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

Others Present: Blake Richards, Janet Allison, Laurie Hatfield and Tom Paul

OPEN PUBLIC COMMENTS

None.

CONSENT AGENDA

The minutes of the September 13, 2010 meeting were presented and approved. The Report of Fees for the month of September (\$1,225.00) were presented and approved.

RILEY COUNTY PLANNING BOARD

ALLISON – (PLAT & REZONE)

Lorn Clement opened the public hearing at the request of Janet Elaine Allison, petitioner and owner, to rezone an unplatted tract of land from “A-2” (Single Family Residential) to “A-5” (Single Family Residential) and an unplatted tract of land from “G-1” (General Agricultural) to “A-5” (Single Family Residential) and plat the aforementioned tracts into a single lot.

Bob Isaac presented the request. Mr. Isaac stated that in May 1976, a 1-acre tract of land was rezoned from “G-1” (General Agricultural) to “A-2” (Single Family Residential) and was never platted. Mr. Isaac said the current owner wishes to expand the size of the property in order to come into compliance with the sanitary code, specifically the area requirements for on-site water and septic systems. Mr. Isaac stated the current owner has purchased three additional acres contiguous to the 1-acre tract. Mr. Isaac explained the Applicant wishes to rezone both tracts to “A-5” (Single Family Residential) and plat both tracts into a single lot.

Mr. Isaac explained the existing home site is generally located half way between Keats and the City of Riley on Anderson Avenue. Mr. Isaac stated the property has direct access to the minor traffic way by a loop driveway and there are no new entrances being proposed.

Mr. Isaac explained the majority of the land that surrounds the site is range land or pasture and there are a few single family residents located to the southwest of the site, off W. 104th Avenue. Mr. Isaac stated the predominant zoning of the area is "G-1" (General Agriculture). Mr. Isaac stated the existing home site is within the Land Use Planning Zone, as indicated in the Flint Hills Joint Land Use Study. Mr. Isaac explained that no additional homes are being proposed with the request. The Applicant wishes to rezone the property to a zoning district that is more compatible with the surrounding area; one that allows horses and other stock animals.

Mr. Isaac stated the request was reviewed with the Vision 2025 Riley County Comprehensive Plan, specifically the Development Guidance System. Mr. Isaac explained that, although the request scored low on LESA analysis (strong for preservation), the subject property has been developed since 1976 as a residential tract. Mr. Isaac said due to the character and location of the existing development, it is not anticipated that rezoning the property to a large-lot residential zoning district will be contrary to the goals, objectives or policies of the Plan. Mr. Isaac stated no new residential development is being proposed with this petition. Mr. Isaac said the platting and rezoning proposed by the Applicant is consistent with the Plan.

Staff recommended that the Planning Board forward a recommendation of approval of the request to rezone the proposed property to the Board of County Commissioners, based on the reasons in the staff report. Staff also recommended approval of the request to plat the proposed property, as it has been determined that all requirements of the Riley County Subdivision Regulations, Zoning Regulations and Sanitary Code have been met.

Janet Allison stated she wanted to be in compliance with the sanitation code. Ms. Allison indicated she would also like to use the land to the west for the sewer as the current system was installed in 1976.

Mr. Clement asked for any opponents to the request. There were none.

Tom Taul moved to close the public hearing. Julie Henton seconded. Carried 4-0.

Diane Hoobler stated the request is taking an existing farmstead and outbuildings beyond the property into the plat which falls within the Vision 2025 guidelines.

Lorn Clement stated that although the property scores high for agricultural preservation, it is an existing structure. Mr. Clement stated as with the extraneous farmsteads, it is suggested that we keep them owner occupied.

Tom Taul stated the Board would like to see Ms. Allison come into compliance with the sanitary code. Mr. Taul stated he would like the record to show that the area around this particular site is "prime" for development. Mr. Taul said this request needs to be considered on its own merit because it is already an established farmstead/ home site. Mr. Taul stated he does not want it assumed by the general public that small acreage can be chopped off from the north and west for development. Mr. Taul stated he is concerned with the perception for development in this area.

Tom Taul moved that the Board forward a recommendation of approval to the Board of County Commissioners, to rezone the unplatted tract of land from “A-2” (Single Family Residential) to “A-5” (Single Family Residential) for reasons listed in the staff report.

Diane Hoobler seconded. Motion carried 4-0.

Tom Taul moved that the Board forward a recommendation of approval to the Board of County Commissioners, to rezone the unplatted tract of land from “G-1” (General Agricultural) to “A-5” (Single Family Residential) for reasons listed in the staff report.

Diane Hoobler seconded.

Lorn Clement asked that the record reflect the existing home is the key reason for the recommendation and the Board does not want to set a precedent for undeveloped land. Motion carried 4-0.

Tom Taul moved to approve the Final Plat of the Allison Addition, Unit Two.

Diane Hoobler seconded. Motion carried 4-0.

Mr. Isaac announced that the Board of County Commissioners will hear the request on October 28, 2010 at 10:20 AM.

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

RILEY COUNTY BOARD OF ZONING APPEALS

Blake Richards – Variance

Lorn Clement opened the public hearing at the request of Blake Richards, petitioner and owner, for a variance authorization to reduce the front yard (west property line) requirement from a minimum of 25 feet to 5 feet.

Bob Isaac presented the request including a brief history of the property. Mr. Isaac said the Applicant is seeking a variance to allow as much buildable space upon Lot 2 as possible to build a house. Mr. Isaac stated the subject site is zoned “A-3” (Single Family Residential) and is surrounded by a mix of residential zonings to the south and “G-1” (General Agricultural) to the north. Mr. Isaac said the area has been platted and zoned for residential for several years but, due to topography and lack of centralized water and sewer systems, is very sparsely developed. Mr. Isaac stated that currently, Lots 1 and 2 of Grandview Heights, Unit Two are vacant. Mr. Isaac said that the potential impact the request may have on Clyde Drive will likely be minimal, as Clyde Drive will not likely be improved or brought up to county standards and serves no other purpose other than to access Tuttle Creek Lake.

Mr. Isaac reviewed staff’s assessment of the variance criteria in relation to the request. Staff recommended approval.

Blake Richards stated he is requesting the variance because the buildable site on top of the hill is very small.

Mr. Clement asked for any opponents to the request. There were none.

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

Tom Taul moved to approve the request of Blake Richards, petitioner and owner, for a variance authorization to reduce the front yard (west property line) requirement from a minimum of 25 feet to 5 feet for reasons as stated in the staff report.

Julie Henton seconded. Carried 4-0.

New Cingular Wireless DBA AT&T – Conditional Use

Lorn Clement opened the public hearing at the request of New Cingular Wireless DBA AT&T, petitioner, and Charles C. Pottorff & Sandra K. Pottorff, owners, for a conditional use authorization to permit construction and operation of a 150-ft. monopine self-supporting communications tower in a “G-1” (General Agricultural) zoning district.

Bob Isaac presented the request. Mr. Isaac stated the site is approximately 950 feet east of Scenic Drive on the south side of Cumberland Road which is south of Anderson Avenue on the west side of Manhattan. Mr. Isaac said the site is zoned “G-1” (General Agricultural) and is almost completely surrounded by the City of Manhattan. Mr. Isaac stated the property owner insisted that stealth technology be used to disguise the monopole as a tall pine tree to blend in with the natural beauty of the area.

Mr. Isaac pointed out that according to the GIS floodplain maps, it appears that a portion of the proposed facilities are located within the designated 1% annual chance floodplain. Mr. Isaac stated the engineering drawings submitted show that the tower and ancillary structures appear to be outside of the floodplain. Mr. Isaac said it is the intent of the Applicant to make sure all the structures were outside of the 1% annual chance floodplain.

Mr. Isaac stated Planning and Development requested the Applicant submit a simulation of the tower to give the Board a visual perspective of the monopine and the site.

Mr. Isaac stated staff recommended the requested Conditional Use be approved subject to the conditions as listed in the staff report.

Monty Wedel, Planning Director, asked Mr. Isaac to explain the need for this tower at this location and why it can not be co-located with an existing structure.

Mr. Isaac said the engineering studies submitted indicted the need for this particular tower to accommodate the new 4G network coming to the area.

Tom Taul asked why 4G would not work on an existing tower.

Mr. Wedel asked if a co-location study was completed.

Mr. Isaac said yes and all the co-location efforts were exhausted in this particular area.

Diane Hoobler asked if the tower would interfere with radio frequency or TV's.

Laurie Hatfield, Black & Veatch representative for AT&T Wireless, explained that radio frequency engineers have performed a study that shows where coverage is lacking. Ms. Hatfield stated with the application coverage maps were submitted. She stated that with increase of cell phone technology, there are those residential areas that experience lots of dropped calls, thus, they are trying to fill in those gaps. Ms. Hatfield stated they are no longer just covering the highways but covering the cities as well. Ms. Hatfield stated the reason for the additional tower is that existing towers can only hold so much equipment. Ms. Hatfield explained that in order towers to carry more data, which is what 3G and 4G is all about, data and applications that business people are into, additional coverage is needed.

Ms. Hatfield said when an area is determined, an extensive search is completed and the information is submitted with the initial application. Ms. Hatfield stated they searched about 1 ½ miles away from the desired site for a co-locatable tower and height requirement. Ms. Hatfield stated they were unable to find anything suitable. Ms. Hatfield clarified that this tower will not interfere with any kind of television or any other technology, as it runs on a different RF (frequency). Ms. Hatfield stated towers less than 200 feet are not regulated by the FFA; however, they have filed a special form with the FAA to determine that the tower will not interfere with the operations of the Manhattan Regional Airport. Ms. Hatfield stated the tower will be fenced and the equipment will be located inside a locked stone shelter.

Monty Wedel stated this request falls under the Federal Communications Act and the Board is not pre-exempted but obliged to provide for these towers as long as they meet reasonable efforts to co-locate and are not a visual intrusion.

Diane Hoobler asked if the tower will have a red light at the top.

Laurie Hatfield said no.

Tom Taul asked what other communications would be allowed on the tower.

Laurie Hatfield stated with its height, it will hold two additional cell carriers.

Mr. Clement asked for any opponents to the request. There were none.

Tom Taul moved to close the public hearing. Julie Henton seconded. Carried 4-0.

Diane Hoobler moved to approve the request of New Cingular Wireless DBA AT&T, petitioner, and Charles C. Pottorff & Sandra K. Pottorff, owners, for a conditional use authorization to permit construction and operation of a 150-ft. monopine self-supporting communications tower in a "G-1" (General Agricultural) zoning district with the conditions as listed in the staff report.

Julie Henton seconded. Carried 4-0.

Bemas Construction Inc. – Variance

Lorn Clement opened the public hearing at the request of Bemas Construction Inc., petitioner, and Bemas Construction Inc., and Feather Fields Farms LLC, owners, for a variance authorization to reduce the minimum setback requirement from a borrow pit to a residence, from 300 feet to 150 feet.

Bob Isaac made the disclaimer that this petition and the following petition were associated with one another. Mr. Isaac stated that Applicant wished to amend the existing Conditional Use Authorization, which was approved in June 2010, to expand the borrow pit. Mr. Isaac said that due to wet weather during the summer months saturating the soil and construction deadlines, the applicant had no choice but to expand the physical boundaries of the excavation site. Mr. Isaac explained that this action requires amending the current Conditional Use. Mr. Isaac explained there is only a certain portion of the parent tract that is available for expansion, due to the Seven Mile Creek and the N-1 zone that run along the northern portion of said parent tract. Mr. Isaac stated the problem with the area proposed for expansion is there's a house located within 300 feet. Mr. Isaac stated the Riley County Zoning Regulations require that a borrow pit cannot be within 300 feet of a residence. Mr. Isaac said the request for the variance is to reduce the minimum setback from 300 feet to 150 feet, in order to allow for the expansion of the borrow pit. Mr. Isaac stated that in order to successfully amend the conditional use, the Board must approve this variance request.

Mr. Isaac stated that Applicant is taking measures for fugitive dust control, which was required as part of the original conditional use. Mr. Isaac stated while he was at the site, several passes were made by the water truck.

Mr. Isaac referred to staff's assessment of the variance criteria in the staff report. Staff recommended approval of the request.

Julie Henton asked if the house is occupied.

Mr. Isaac stated he visited the house and the home appears to have been unoccupied for several months. Mr. Isaac said a neighbor informed him that the owner may be in California. Mr. Isaac said all notification procedures have been followed but the department has not heard anything from the property owner.

Diane Hoobler stated that in the original letter from Bemas Construction indicated 2,000,000 cubic yards would be needed in 2010. Mrs. Hoobler asked if more than this amount has been excavated.

Tom Paul, Bemas Construction, stated they are reaching 1,000,000 cubic yards.

Diane Hoobler asked if the additional 20 acres will make much difference.

Tom Paul stated they are approximately 12 to 13 feet deep in some spots and some spots have hardly been touched. Mr. Paul said one reason is the far northern corner of the site, which they are still in the process of getting a permit from the Union Pacific Railroad. Mr. Paul said they have put in a temporary bridge over the realignment of the Seven Mile Creek with the purpose to bring dirt out over the creek to the east for a railroad embankment. Mr. Paul stated that they

will eventually go over the bridge, across the railroad track and have another 400,000 yards available. He said they are leaving that corner of the borrow site untouched because it happens to be, distance wise, closer to where they will be taking the dirt. Mr. Paul said they found production works better if they take so much dirt, move to another area and allow the disturbed area time to air dry and then they disk it. He said currently the extra area allows them to move around the borrow site.

Lorn Clement asked what the actual distance from the house to the red line on the aerial is.

Tom Paul said 150 feet. Mr. Paul said the house is very well consealed with trees and that he tried to locate the homeowner several times. Mr. Paul said he has never been able to find anyone home.

Lorn Clement stated his concern is being that close and wondered if the setback should be moved to 200 feet.

Tom Paul said they would like the dirt to be available and they are using a portion of that site to the north of S. 32nd Street as a temporary equipment yard. He said they will keep the equipment yard as long as possible but would like the dirt to be available if and when needed.

Julie Henton asked what attempts were made to contact the property owner.

Bob Isaac stated written notification was mailed to the property owner.

Monty Wedel stated the property owner receives written notice of the request and Bob Isaac physically visited the house to try to talk with owner.

Tom Taul asked if Bemas Construction is buying the 20 acres.

Tom Paul said yes, just as Bemas Construction is the owner of the current borrow site. He said the intent is to sell all the property back to Feather Field Farms when the project is over.

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

Julie Henton moved to approve the request of Bemas Construction Inc., petitioner, and Bemas Construction Inc., and Feather Fields Farms LLC, owners, for a variance authorization to reduce the minimum setback requirement from a borrow pit to a residence, from 300 feet to 150 feet for reasons as stated in the staff report.

Tom Taul seconded. Carried 4-0.

Bemas Construction Inc. – Conditional Use

Lorn Clement opened the public hearing at the request of Bemas Construction Inc., petitioner, and Bemas Construction Inc., and Feather Fields Farms LLC, owners, for a conditional use authorization to amend Conditional Use #10-12 to expand an existing borrow pit for resource extraction.

Bob Isaac presented the request. Mr. Isaac stated the Applicant is requesting to increase the borrow site by 20 acres. Staff recommends that the requested Conditional Use be approved with the understanding that the following conditions are met.

1. This Conditional Use Authorization shall apply to the entire 87.76-acre tract of land, as legally described herein;
2. Soil may be excavated to a maximum depth of fifteen (15) feet below the existing ground level. If excavations occur that are deeper than 15 feet, these areas must be filled in with sandy material back to a depth of 15 feet below grade. If, at any time, water is encountered during the excavation, sandy material shall immediately be returned to a depth of two (2) feet above the depth of the water. The depth of excavation shall be maintained at two (2) feet above water depth throughout the project regardless of the 15 feet depth permitted above. To verify the depth of the water table, Bemas Construction shall dig a test hole and allow Riley County Planning & Development to determine the appropriate excavation depth prior to commencing the excavation operation. At no time shall standing water be permitted on the borrow pit site, excepting storm events percolating away within a 48-hour period;
3. An updated instrument of financial surety (as per Section 22A - Resource Extraction of the Riley County Zoning Regulations), with an accompanying legal description that incorporates the additional borrow area, shall be submitted to and approved by the Riley County Board of Zoning Appeals. The Reclamation Plan is attached hereto and incorporated by reference as Attachment A;
4. Such instrument of financial surety for reclamation (Letter of Credit) shall not be released until a determination has been made by the Zoning Enforcement Officer that the borrow pit has been successfully reclaimed in its entirety, as prescribed by the approved Reclamation Plan.
5. Due to the increased potential of attracting waterfowl, which could present a hazard to the nearby Manhattan Regional Airport, the bottom soil layer shall be a type that allows both water infiltration and growing of crops. That layer shall be the type specified in the Reclamation Plan.
6. Hours of operation shall be limited to daylight hours;
7. The Fugitive Dust Plan submitted and approved for Petition #10-12, describing proposed dust control measures for the site, including the application of water as needed, shall be utilized and applied to this amended conditional use, as per the site plan.

Monty Wedel suggested changing the language of condition #3, from “shall be submitted to and approved by the Riley County Board of Zoning Appeals.” to “shall be submitted to and approved by the Riley County Planning and Development Department.”

Diane Hoobler moved to close the public hearing.

Tom Taul seconded. Carried 4-0.

Diane Hoobler moved to approve the request of Bemas Construction Inc., petitioner, and Bemas Construction Inc., and Feather Fields Farms LLC, owners, for a conditional use authorization to

amend Conditional Use #10-12 to expand an existing borrow pit for resource extraction with the conditions as stated in the staff report and the amendment to the language of condition # 3 as suggested.

Julie Henton seconded. Carried 4-0.

Tom Taul moved to adjourn as the Riley County Board of Zoning Appeals and reconvene as the Riley County Planning Board. Julie Henton seconded. Carried 4-0.

RILEY COUNTY PLANNING BOARD

Quarterly Analysis of the LESA System

Staff does not recommend changes at this time due to the lack of rezoning petitions.

Update on Vision 2025 Implementation

Monty Wedel said the draft has been received and staff has started the review process. Mr. Wedel said it will take time to review the draft and hopes to have a report available at the next meeting.

Report on Gateway Plan Update

Monty Wedel stated they are trying to schedule another steering committee meeting to go over the results of the public meetings held in September.

The meeting was adjourned at 9:09 P.M.