

MINUTES

RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Monday, December 13, 2010
7:30 pm

Courthouse Plaza East
Commission Meeting Room
115 North 4th Street

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

Members Absent: None

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

Others Present: Vinton Visser & Lance Evans, Senior Planner, City of Manhattan

OPEN PUBLIC COMMENTS

None.

CONSENT AGENDA

The minutes of the November 8, 2010 meeting were presented and approved. The Report of Fees for the month of November (\$610.00) was presented and approved.

RILEY COUNTY BOARD OF ZONING APPEALS

No agenda items.

Lorn Clement moved to adjourn as the Riley County Board of Zoning Appeals and convene as the Riley County Planning Board. Julie Henton seconded. Carried 5-0.

RILEY COUNTY PLANNING BOARD

Annual Comprehensive Plan review

Bob Isaac stated the Comprehensive Plan is required by statute to be reviewed annually. He explained that a copy of the Executive Summary of the Plan, which contains the goals, objectives and policies, will be provided to the Board in the packet for January's meeting. The Board will need to review the materials and determine if there needs to be any changes to the Plan.

Gateway Draft Review

Monty Wedel stated the committee is getting closer to wrapping up the project and that a draft copy of the Plan has been provided to the Board. Mr. Wedel stated the County and City Commissioners will be briefed on the draft on Thursday, December 16th. Mr. Wedel stated a formal public hearing is in the near future. Mr. Wedel said he would like to give kudos to Lance Evans, Senior Planner with the City of Manhattan as he has basically spear-headed this project and organized a lot of the meetings.

Mr. Wedel stated the change to the Plan is the addition of a focus area within the original Plan boundary, concentrating on future land use. Mr. Wedel stated there is not much change in the Riley County Planning Board's jurisdiction of the plan area. Mr. Wedel said the original effort adopted in 1998 resulted in two different plans; the City and the County. Mr. Wedel stated there was a difference of opinion when it came to the ridge line or the View Shed Overlay. Mr. Wedel stated what is driving the review is the extension of city water and city sewer service to that area.

Mr. Wedel explained that the objectives and the implementation is the primary focus. Mr. Wedel stated the Plan concentrates on the K-177 corridor, which suggests the creation of a Corridor Overlay District and a Ridgeline Overlay District. He explained that these would be designed to control the aesthetics of the commercial/residential development and redevelopment within the K-177 corridor. Mr. Wedel said the Ridgeline Overlay District would address the Committee's concerns regarding building on the ridge and how it affects critical views from the highway. Mr. Wedel stated the Gateway Committee substantially reviewed the original Plan and came up with some new ideas, such as signage and outdoor storage.

Mr. Wedel stated the biggest change for the Gateway area is the provision of city water and sewer service. Mr. Wedel said that the City and County have made a substantial public investment in the area that should be optimized by promoting urban density development and eventually, annexation into the City of Manhattan.

Mr. Wedel explained, as with water and sewer, the Committee wanted to promote a future road network that will logically and efficiently connect tracts that would be developed. Mr. Wedel stated this was based on a study from George Butler and Associates.

Lorn Clements asked if there is a paragraph in the Plan that describes the determination of the slopes on the roadways. Mr. Clement said when you locate the roads you are determining the urban pattern, setting up that structure, so as to explain why the roads might be there.

Mr. Wedel asked Lance Evans if there is a reference to the George Butler and Associates report in the draft. Mr. Wedel suggested a reference be put in the appendix.

Diane Hoobler asked if there is a drainage ditch or creek that runs between Johnson and Lafayette. She asked if it will require any special bridges.

Mr. Wedel said yes someone will have to come up with the funding to build the necessary infrastructure to get across those things.

Diane Hoobler asked if people are going to have put in their own bridges to get across the drainage area or will the county have to put something in.

Mr. Wedel explained that the County's policy is that development must pay its own way and public has already extended sewer out there. Mr. Wedel said there are funding opportunities through benefit districts.

Mr. Wedel stated that there will eventually be formal public hearings to adopt the Plan, before both Planning Boards and both Commissions.

Mr. Wedel said there's a strong desire to implement the Corridor and Ridgeline Overlay Districts. However, Mr. Wedel explained, this will require a visual analysis to be completed.

Lorn Clement asked if Monty had talked to KSU professor Eric Bernard to possibly have his GIS class do the visual analysis as a project.

Monty said he had not yet, but there will be something to work on after the Plan is adopted.

Lance Evans said some preliminary GIS analysis has been done to get an idea of where the most visible points are from the corridor.

Lorn Clement said Howard Hahn is another facility member in landscape architecture who is very interested in modeling visualization with pretty powerful software packages.

Lorn Clement said he is concerned about the roads from a rational standpoint or an explanation of why those are located where they are or if there is some phasing involved.

Lance Evans explained that the existing Plan laid out the network. He said that the decision as to where roads should probably be located was based on a study by George Butler and Associates, taking into account the existing topography, slope and existing road network. Mr. Evans explained that alternate routes are shown in dashed lines.

Review Draft Regulation Amendments to Implement Vision 2025

Monty Wedel said for the sake of the public, the draft notice was put on the screen. Mr. Wedel said what we have is a very rough draft of the regulation amendment and only what is needed to have adopted to implement Vision 2025. Mr. Wedel stated there are lots of other changes we need to make to the regulations, but will have to wait for the total rewrite. Mr. Wedel said right now, we are trying to pull out what we thought was essential from the Clarion report to get Vision 2025 implemented, particularly the agricultural zone.

Mr. Wedel stated provided the Board with a framework outline of the amendment. Mr. Wedel explained that the draft notice will primarily show proposed changes to the Riley County Zoning Regulations, but will also include changes to the Riley County Subdivision Regulations as well.

Mr. Wedel said changes will need to be made to the definitions. Mr. Wedel said we need a different definition of agricultural use. Clarion has given us some ideas.

Mr. Wedel stated there will be a new section (Section 3A) that includes a process that outlines how to go about determining whether a building permit for a house should or shouldn't be exempt for agricultural use.

Mr. Wedel said the entire "G-1" (General Agricultural) section will be deleted and replaced with an entirely new section. Mr. Wedel explained the new classification for the agricultural district will be "AG", which will require that the classification of the residential districts to change from "A-1" through "A-5" to SF (Single Family).

Mr. Wedel discussed the inclusion of "residential use designators" that Clarion suggested. Mr. Wedel explained that this system would address situations such as isolated home sites, reconversion lots and extraneous farmsteads, where a residential zoning classification would not be appropriate.

Mr. Wedel also explained the "country estate" designator, which is for 15-acre or larger tracts in which the primary use isn't necessarily agricultural, but are rural in nature (e.g. a horse ranch), that shouldn't be zoned residential. Mr. Wedel said each of "designator lots" will have their own standards. Mr. Wedel explained that the AG district will have its own requirements.

Mr. Wedel explained the Table of Uses (P-permitted, C-conditional use and S-special use) as originally suggested by Clarion. Mr. Wedel explained that some of the uses may include use specific standards, most of which have not been developed yet.

Mr. Wedel said there will be a new section, Agricultural Protection Easement (APE). Mr. Wedel stated that the proposed language was what Clarion initially submitted with suggested changes by County Counsel.

Mr. Wedel said that a new section would be needed on preparing site reviews. Mr. Wedel said much of the specific developmental standards were omitted in order to keep the amendment simple. Mr. Wedel explained that it is important to focus on minimum amount of changes needed to implement the comprehensive plan.

Mr. Wedel explained the proposed changes to the Riley County Subdivision Regulations. He stated that tracts larger than 20 acres should not be required to plat. Mr. Wedel said however, the definition of agriculture should be changed to match the new definition listed in the zoning regulations.

Diane Hoobler asked why should the Manhattan Urban Area Planning Board be concerned.

Mr. Wedel explained that they also have jurisdiction outside the city limits and the zoning regulations apply immediately outside the city limits.

Mr. Wedel said staff will work primarily with the Riley County Planning Board to work out the language and eventually have a work session with the Manhattan Urban Area Planning Board before public hearing.

Mr. Wedel asked the Board if staff was capturing all of it right now for Vision 2025.

The Board agreed.

Mr. Wedel suggested starting with the definitions. Mr. Wedel explained the three options for the definition of agriculture, as shown in the draft notice.

Mr. Wedel stated that the big difference is, “for commercial purposes”. Mr. Wedel said he liked the hybrid definition by taking Option 1 and Option 2 and combining them into one.

Mr. Wedel used Steve Higgins as an example. Mr. Wedel said Steve has 15-20 acres and produces a lot of his own hay for his own horses. Mr. Wedel said that although that is agricultural and might even be exempt for taxation, as per the new definition, Mr. Higgins is producing for his own purposes and not producing a product for the market place, thus, not considered agricultural.

Diane Hoobler gave an example of a family had approximately 10 acres with a large garden. She said that the family would harvest the produce and take to the Farmers Market every week to sell. Mrs. Hoobler asked if the family is considered agricultural under the proposed definition.

Monty Wedel asked if they were selling something at the market place.

Diane Hoobler answered yes.

Mr. Wedel explained that although they may be considered agricultural by this definition, it does not necessarily mean they would be allowed to build a house without going through the Development Guidance System and the rezoning process. Mr. Wedel said we are separating the definition of agricultural use from the criteria that will use for the house. Mr. Wedel reminded the Board that the Vision 2025 Plan inquires: Does the level of activity of the agricultural operation warrant the presence of a house?

Mr. Wedel stated that staff will work with the Board to develop most of the proposed regulation amendments, but will eventually have Clarion and county legal counsel review it for feedback. Mr. Wedel said then we will hold several public meetings.

Julie Henton asked why commercial greenhouses are in Option 3 but not in Option 1 (definition of agriculture).

Mr. Wedel said staff omitted commercial greenhouses because they are not included in the existing definition.

Diane Hoobler asked why do not allow greenhouses in Riley County.

Monty Wedel said they are permitted, but are not considered agriculturally exempt. Mr. Wedel explained that commercial greenhouses are listed as a conditional use in the agricultural zoning district because of the potential impact.

Diane Hoobler stated that although she considered nurseries and greenhouses to be agriculture, she could understand the difference, especially from a taxation point of view.

Monty Wedel stated that growing of nursery stock is exempt currently, but not commercial greenhouses.

Jon Larson said he wondered how legal counsel would look the definition of “commercial”. Mr. Larson also inquired as to where one draws the line in regard to the farmers market. Mr. Larson said he wondered how you might clarify that. Mr. Larson said there are recreational (ag) landowners that put two head of cattle out on the pasture so they can call it agriculture.

Mr. Wedel said given the spirit of the discussion with the Committee and the Planning Board, I don’t think we want to totally exempt everybody that is raising a horse or a goat or a big garden, particularly if they are not selling anything to the market place.

Jon Larson said the deciding thing is how one interprets “commercial”; where does one draw that line?

Monty Wedel said we staff with legal counsel and they determined that “sale to the market place” determines whether or not it is commercial.

Jon Larson said “sale to the market place” could be only one item.

Monty Wedel agreed and said it could meet the definition of agricultural use, but as far as being allowed to build a residence there in connection to that activity, we would use a different determination, the criteria for which has not yet been created.

Lorn Clement said maybe part of the way to explain this or to discuss it is to try to for see the tax implications of these changes. Mr. Clement said he can see himself in his own situation why we shouldn’t exempt hobby farms. Mr. Clement said his wife is going to ask how this affects her in terms of the tax bill. Mr. Clement said if it were to change significantly, then he would not be for it (from a property owner’s perspective).

Mr. Clement said he thought of what used to happen repeatedly on this Board with other members who would always want to know what certain regulations meant in terms of the implementation, the impact on their property rights and what would happen to their taxes if the Board accepted these changes. Mr. Clement said that if we use “commercial” here to define agricultural use, but didn’t change the zoning or if it didn’t change the tax structure substantially on existing property, a lot of people would be okay with that.

Mr. Wedel explained that zoning is not connected to taxation. Mr. Wedel said the Appraiser’s Office has their own definitions and criteria from the State that determines what they are going to consider agriculture.

Tom Taul asked if you are not zoned agricultural, they can tax you as agricultural?

Monty Wedel explained that many subdivisions along the lake are platted, residentially zoned subdivisions. Mr. Wedel said that those lots have remained vacant for several years and are basically being hayed. Mr. Wedel explained that many years ago, the original developer came into the Appraiser asking not to be taxed residential because the land wasn’t being used for

residential purposes. Mr. Wedel stated since hay is being taken off the property, the land use is agricultural; thus, the land is taxed based on the land use, not the zoning. Mr. Wedel said on the reverse side, there are parcels up north that are zoned agricultural, but the owners are not using the land for agriculture purposes, just letting it go to cedars. As a result, Mr. Wedel continued, the Appraiser is considering that vacant land with no agricultural use is taxed at a much higher rate.

Monty Wedel asked the Board what their feelings are on commercial greenhouses; do they want them to be considered agricultural or agriculturally exempt.

The Board consensus was to leave commercial greenhouses as conditional use.

Tom Taul asked to what this definition of agriculture will apply?

Monty Wedel explained that the definition will provide the foundation by which we decide agricultural exemptions from the zoning and subdivision regulations. Mr. Wedel said this determination of agricultural use exemption will be used to outline a procedure which will give staff the ability to decide who would be allowed to build a residence to support the agricultural use.

Tom Taul said he owns 80 acres that is used exclusively for hay. Mr. Taul explained that he does not sell any of it, but swaps it out for other products, kind of like a barter system.

Mr. Wedel said it is going to the market in a round about way. Mr. Wedel asked Mr. Taul if he could provide some documentation showing the trade.

Mr. Taul answered no. Mr. Taul said he would not be in favor of something like this.

Mr. Wedel asked Mr. Taul if he shows any farm income.

Mr. Taul said he does not want to show much income. Mr. Taul said he files a Schedule F but his goal is to work on taxes and show expenses, not income. Mr. Taul said he has a tractor, mower and equipment and does not want much income.

Mr. Wedel asked if Mr. Taul has some sales.

Mr. Taul said minimal, some years no. Mr. Taul said it depends on what kind of year it is.

Mr. Wedel said basically by this definition you have to sell something to the market.

Diane Hoobler said the solution possibly is the Schedule F. Mrs. Hoobler commented to Mr. Clement and confirmed that he did not file a Schedule F and asked how many acres he owned?

Lorn Clement replied 23 acres.

Monty Wedel agreed that the Schedule F is one criterion that we have.

Diane Hoobler said if they had 5 acres and file a Schedule F proving that they are selling products...Bob Isaac interrupted and said those are criteria; not the definition. Mr. Isaac emphasized that we are strictly talking definition.

Mr. Wedel said the definition is selling and you have to sell something to be able to file a Schedule F. Mr. Wedel asked can you file a Schedule F without producing anything or selling anything.

Julie Henton said up to a certain point then the IRS is going to say you are a hobby farmer you are done. Mrs. Henton said after 10 years of no profit you are not considered a farmer.

Mr. Isaac asked the Board at what point do you have to file a Schedule F.

Diane Hoobler said that State determines a farmer as a \$1,000 worth of product.

Julie Henton said that is not what the federal requirements say. Mrs. Henton stated that it depends on how many years of losses and other things.

Mr. Wedel suggested that the as part of the definition of agriculture, one would have to sell something (i.e., one egg, one bale of hay, etc.); that is commercial purposes. Mr. Wedel explained that if one is producing absolutely nothing, not filing a Schedule F, not selling anything to the market at all, one could not be considered agricultural. Mr. Wedel asked if the Board was comfortable with that.

The Board agreed.

Mr. Wedel said the big qualifier here is that the definition shall not include those lands which are used for recreational purposes, suburban residential acreages, rural home sites and yard plots, whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed. Mr. Wedel said if we do not have commercial in the definition, how will staff be able to differentiate agricultural use from any of these?

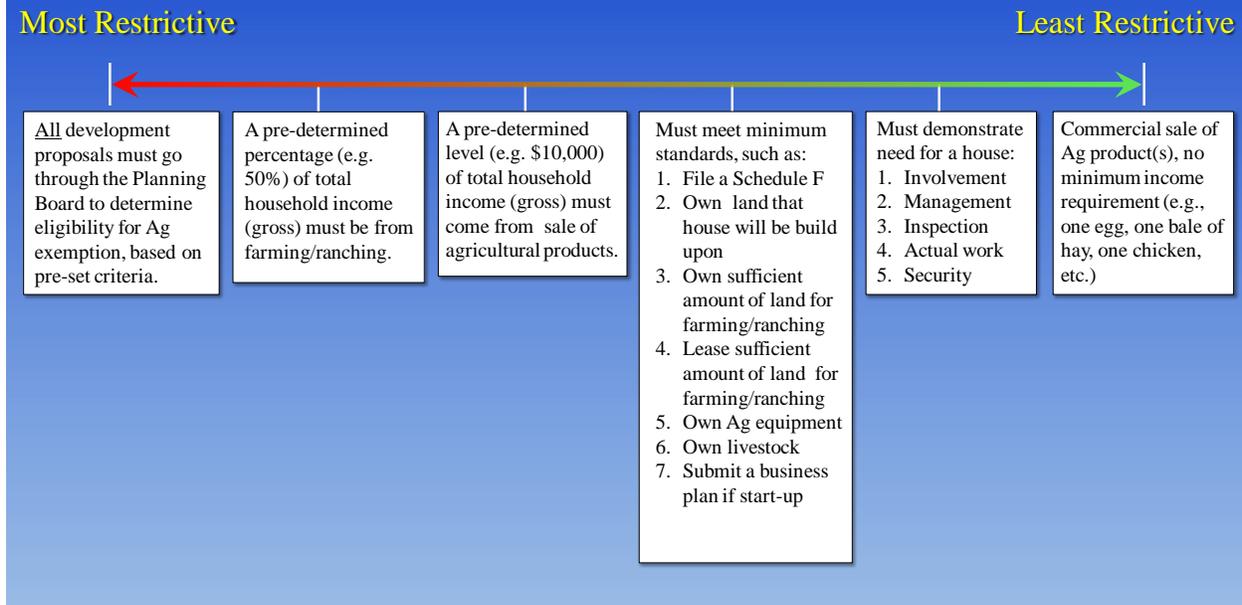
The Board agreed with the assessment.

Mr. Wedel suggested the Board bring their attention to the handout. Mr. Wedel explained the handout as a spectrum of options for determining agricultural exemption for a residence.

Lorn Clement commented on the seven minimum standards listed in one option would strike people as reasonable, but beyond that it is going to be pretty touchy.

Jon Larson said anytime you get into needing evidence of someone's income you are going to get into problems. Mr. Larson said that he does not think that will work.

Options for Determining Agricultural Exemption for a Residence



Julie Henton said number three

Monty Wedel explained the chart and said it is shown towards the least restrictive end is what we are currently doing.

Jon Larson stated that he feels that there should be some sort of minimum standard in place and the staff should use those to make the determination. Mr. Larson said that as far as he was concerned, the three most restrictive boxes (options) can be eliminated and the two least restrictive don't do enough.

Mr. Wedel explained that the Board didn't need to reach a decision this evening, but perhaps give staff some direction from the Board as to where we should be. Mr. Wedel said that staff could draft a proposal for some minimum standards for the Board's review, something more restrictive than "one egg, one bale of hay, etc."

The Board agreed.

Mr. Wedel offered that the Board did not want to have a minimum standard relating to a certain minimum level of sales.

Chairman Larson reiterated that the County could experience problems with that tactic; any time income is involved with the decision-making process, it's problematic, especially considering all of the different scenarios and situations that exist.

Mr. Taul stated that when people come to the courthouse, they don't want other people knowing their business.

Mr. Wedel pointed out that people are more willing to volunteer information in order to get an agricultural exemption.

Mr. Wedel suggested the Board move on and asked the Board if they were comfortable with the purpose statement. The Board affirmed.

Mr. Wedel described the "residential designator" process. Mr. Wedel also reminded the Board that the Development Guidance System will be a stand alone document and will not be included in the zoning/subdivision regulations. He explained that the document will be adopted by reference and won't be able to be changed without approval by the Planning Board and County Commissioners.

Mrs. Hoobler asked about abandoned houses or sites that used to have a house on them.

Chairman Larson pointed out that there are a lot of abandoned farmsteads that are missing the house. He said that if you open it up to allow non-farm related residences to be built under the auspices of a residential designator, it could result in a lot of non-farm related residential development out in the county. He said that we're going to have to limit it to existing houses.

Mr. Wedel asked the Board how they felt about the designator approach in general.

Mr. Clement stated that he liked the concept but thought that it will be complicated and difficult to explain to the public. He stated that the County doesn't want to upset the current Development Guidance System so we're going to use these designators, but it appears that we are trying to freeze things, in terms of not letting clusters get started.

Mr. Wedel stated that he viewed the designator approach as an attempt to integrate some flexibility into the AG zoning district, otherwise, everybody would have to go through the Development Guidance System unless they were exempt. He said that flexibility was the thrust of the Committee and the designator approach is preferable to rezoning.

Lorn Clement agreed.

Bob Isaac stated that the "designator" is similar in some respects to an overlay district with specific criteria that pertains to each type of designator.

Tom Taul stated that when he first read the draft notice, he thought that it was too complicated, but now that it has been explained, it may have its merits.

Chairman Larson supported the concept and stated that it is just emphasizing the re-use of extraneous farmsteads and existing facilities.

Mr. Wedel agreed and added that such re-use should be allowed without rezoning the property.

Mr. Wedel reviewed the conditions of approval for an extraneous farmstead, including limiting one extraneous farmstead designator lot per original parent ag tract.

Chairman Larson asked what is an original parent ag tract.

Mr. Wedel explained that it's the tract on which the extraneous farmstead is located at the time the subdivision takes place.

Chairman Larson asked what if there are two extraneous farmsteads on a single tract.

Mr. Wedel said that only one of the farmsteads could use the designator; the other would have to use some other mechanism.

Vinton Visser addressed the Board and said that some situations are going to simply require to be brought before the Planning Board for a decision.

Mr. Wedel agreed.

Mr. Wedel continued with the review of the conditions of approval for the extraneous farmstead designator lot, including the requirement to plat the property, sign an Agriculture Protection Easement (APE) and submit a site plan.

Lorn Clement stated that the requirement for a site plan could get "touchy" very quickly.

Mr. Wedel reminded the Board that the site plan section of the amendment has not been finalized and will need some work.

Mr. Wedel asked the Board if they thought the process for a residential designator lot classification should be similar to the formal rezoning process, including notification, public hearing, etc.

Lorn Clement stated that if the process for a residential designator lot classification be similar to the formal rezoning process it would be a very good thing.

Mr. Wedel explained that the differences would be that the process for a residential designator lot classification would not include notice in the newspaper and there wouldn't be a resolution.

Lorn Clement agreed but emphasized that the hearing process would be the same.

Mr. Wedel stated it should be noted in the text amendment that the process will be similar to the rezoning process.

Mr. Wedel reviewed the conditions of approval for reconversion designator lots and agreed that some of the language describing tract size requirements needed tweaking.

Vinton Visser asked the Board what happens when someone wants to build on the undeveloped portion of tract that was "re-converted" back to agriculture.

Mr. Wedel explained that they would have to go through the plat/rezone process, unless they are agriculturally exempt.

Mr. Wedel reviewed the conditions of approval for reconversion lots, including limiting one reconversion lot per original parent tract.

Mr. Wedel explained that the standards for extraneous farmsteads and reconversion lots were written to deal with parcels with existing homes, while the standards for isolated home sites and country estates were designed for new houses.

Mr. Wedel suggested that the Board continue this discussion at the next Planning Board meeting and asked the Board if they felt staff was on the right track regarding the amendment.

The Board approved.

Lorn Clement commented that the designator lot concept was easier to grasp after Bob Isaac made the comparison that it was similar to an overlay district.

Mr. Wedel warned that although similar, the designator lot should not be viewed as a true overlay district.

Mr. Clement agreed with Mr. Wedel, but stated that the analogy of how it might work is similar.

Mr. Wedel stated that using the term “overlay” may be more confusing to people. He explained that when a PowerPoint show is used along with describing the concept, it will be easier for people to grasp.

Bob Isaac suggested that a PowerPoint tutorial could be created and put on the website as part of the regulations to help illustrate the concept and educate the public.

Diane Hoobler moved to adjourn. Motion seconded by Tom Taul.

The meeting was adjourned at 9:29 P.M.