

MINUTES

RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Thursday, February 17, 2011
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: None

OPEN PUBLIC COMMENTS

None.

CONSENT AGENDA

The minutes of the December 13, 2010 meeting were presented and approved. The Report of Fees for the month of December 2010 (\$1,285.00) and January 2011 (\$350.00) were presented and approved.

Lorn Clement moved to adjourn as the joint meeting of the Riley County Planning Board/Board of Zoning Appeals and convene as the Riley County Planning Board. Tom Taul seconded. Carried 5-0.

RILEY COUNTY BOARD OF ZONING APPEALS

No agenda items.

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

RILEY COUNTY PLANNING BOARD

Election of Officers

Lorn Clement nominated Jon Larson for the position of Chairman. Tom Taul seconded. Motion carried 5-0.

Diane Hoobler nominated Lorn Clement for the position of Vice-Chairman. Julie Henton seconded. Motion carried 5-0.

The Riley County Planning Board nominated Bob Isaac for the position of Secretary. Motion carried 5-0.

Annual Comprehensive Plan review

Bob Isaac reminded the Board that the Executive Summary of the Vision 2025 Comprehensive Plan, which contains the goals, objectives and policies, was included in the agenda packet for the January meeting. Mr. Isaac instructed the Board to review the materials to determine if there are any changes needed to be made to the Plan. Mr. Isaac said he will need any feedback from the Board at the next meeting and should be on schedule to present the final report to the Board of County Commissioners by June.

Lorn Clement asked if there are any indications from the County Commissioners that they are unhappy with the Plan as it is.

Mr. Isaac replied that there has been no negative feedback thus far. Mr. Isaac explained there haven't been enough development requests yet to accurately assess the effectiveness of the Plan. Mr. Isaac said if there are no changes proposed by the Board, he will prepare a letter for Chairman Larson to sign on behalf of the Planning Board, which will then be presented to the Board of County Commissioners.

Jon Larson asked if all Board members need to sign the approval of the Plan review.

Lorn Clement moved that the Board review comments and, if there are no substantial changes, a letter be drafted and signed by Jon Larson on behalf of the Planning Board making the annual review official. Motion carried 5-0.

Annual Report

Bob Isaac explained that due to extenuating circumstances, the report has not been finalized yet. The Annual Report for 2010 will be presented at the March Planning Board meeting.

Quarterly Analysis of the LESA System

Staff does not recommend changes at this time due to the lack of rezoning petitions. Mr. Isaac stated that he directed GIS staff to make modifications to the LESA System Locations & Scores Map, to pinpoint the specific sites that the LESA System was ran, not just the section or the general location. The next quarterly review of the LESA System will be April.

Review Draft Regulation Amendments to Implement Vision 2025

Monty Wedel suggested starting over at the beginning of the draft notice of public hearing on amendments to the Zoning Regulations and Subdivision Regulations of Riley County to review the changes made at the December meeting.

The Board affirmed.

Monty Wedel said all the “A” zones will be changed to “SF” (Single Family) to avoid confusion with the newly created “AG” (Agricultural District) zones.

Mr. Wedel stated that staff worked with Legal and added Section 1 – Introduction and Purpose to update citations to the statutes.

Mr. Wedel stated the draft was updated to reflect the definition for “agricultural use”, agreed upon at the last meeting.

Monty Wedel said the definitions for “agritourism”, “commercial use”, “hobby farm” and “small-scale business” have been added to the draft. Mr. Wedel asked the Board if they had any concerns with the aforementioned definitions.

Diane Hoobler questioned whether “hobby farm” is considered agricultural, as in farming.

Monty Wedel said “hobby farm” is not considered agriculturally exempt even though it is agricultural use on a small scale.

Mr. Wedel stated Section 3A – Determination of Agricultural Use Exemption is all new, based on the discussion at the December meeting on how to deal with exemptions. Mr. Wedel said that the purpose statement mentions the Attorney General’s summarization explaining the difference between a true agricultural purpose and use versus someone wanting to have a residential rural home site. Mr. Wedel stated we need to specify the conditions. Mr. Wedel stated at this time, staff has not visited with Legal. Mr. Wedel said the authority is granted to the Director to make the agricultural exemption determinations. He said if someone disagrees with the Director’s determination, they can appeal the decision to the Board of Zoning Appeals.

Mr. Wedel stated that all exemptions must start with an application and any required supplemental documentation. Mr. Wedel stated that no application fee shall be charged for an agricultural exemption determination. Mr. Wedel stated, however, if the determination is made that a proposed use is not agriculturally exempt and the applicant wants to appeal, there would be a fee incurred. Mr. Wedel said likewise, if the Board of Zoning Appeals determines that a proposed use is agriculturally exempt, the fees charged for the appeal would be reimbursed.

Mr. Wedel explained the different categories of exemptions and associated criteria for making a determination.

Mr. Wedel stated the applicant must demonstrate they are “engaged in agriculture” and need to have a house on the land. He said the applicant must be involved in any of the following actions:

- 1) Inspect the agricultural operation periodically and furnish at least half the direct cost of the operation;
- 2) Regularly and frequently make or take an important part in management decisions substantially contributing to or affecting the success of the agricultural operation;
- 3) Perform physical work, which substantially contributes to the agricultural operation.

Mr. Wedel asked the Board for their thoughts and asked if this is consistent with previous discussions.

Chairman Larson said it will depend on the Director to analyze the information provided by the applicant for accuracy.

Mr. Wedel explained that if there is any doubt regarding the validity of an applicant, he would rather err on the side of allowing the exemption, rather than forcing a legitimate, bona fide agricultural producer to comply with something that would be in violation of the statute.

Lorn Clement said this is really important that the Director have that policy and should be well known that it is the policy that is followed.

Mr. Wedel stated other criteria that may be considered including enrollment in federal or state agricultural programs as well as membership in agricultural organizations.

Diane Hoobler asked about 5.c. 1) “Inspect the agricultural operation periodically and furnish at least half the direct cost of the operation.” She stated, as an example, a young farmer coming back to join the family operation would have no way to provide half the cost of the operation.

Julie Henton stated the young farmer would qualify for some of the other options.

Bob Isaac stated this example would qualify under item 6. as an additional residence.

Mr. Wedel said this is circular, item 6. says the Director shall determine the occupant of the proposed additional residence is sufficiently “engaged in agricultural” to warrant the exemption. Mr. Wedel stated then he would refer back to 5.c. and the actions 1), 2) and 3).

Chairman Larson said this example would not have to conform to 5.c.1).

Julie Henton said the example could use 5.c.2) or 5.c.3), any of those listed, not all.

Bob Isaac pointed out that the regulation reads “any of the following actions”.

Lorn Clement said the way 5.c. is written, it includes all three actions.

Chairman Larson agreed with Lorn Clement and was not sure if there is a problem.

Diane Hoobler said she thought all three actions were required.

Monty Wedel suggested changing the language to “shall include, but not limited to any of the following actions:”

Lorn Clement said you could change 5.c.1) in part 6. Exemption for Additional Residence to say they wouldn’t have to furnish at least half of the cost, but must meet the other criteria.

Monty Wedel suggested changing “shall” to “should” in 5.c., which still would allow the Director to make a determination that the young farmer is needed.

Lorn Clement stated that by changing “shall” to “should” makes the language discretionary. He said Mr. Wedel is correct in switching “shall” to “should” as the courts would declare that “shall” is mandatory and “should” is discretionary.

Bob Isaac said it is safe either way because the regulation reads “any of the following actions” not “all of the following actions”.

Lorn Clement said it is a little confusing because that word shall suggests that all three would be required, even though it is followed by “but not limited to any of the following actions”.

Monty Wedel suggested, “shall include one or more of the following, but not limited to the following actions:”.

Lorn Clement stated that would be clearer.

Monty Wedel made the changes in the wording on the draft document and asked the Board members if this statement was clearer.

The Board affirmed.

Chairman Larson asked how the Director would handle an applicant that has 160 acres of CRP and want to build a house.

Monty Wedel said the applicant will need to demonstrate why they would need to live out there.

Chairman Larson asked where the Director draws the line, because we do have those situations.

Mr. Wedel suggested for example, a possibility of leasing land to the Wildlife and Parks for hunting to earn income.

Bob Isaac stated this situation makes 5.c. that much more important.

Mr. Wedel said it would be a judgment call. Mr. Wedel stated there has been a pretty good track record with agricultural exemptions thus far.

Mr. Wedel said the next item “6. Exemption for Additional Residence” could be a family member or farmhand and must show they are engaged in the agricultural operation. Mr. Wedel asked the Board if there were any concerns.

The Board had no concerns.

Mr. Wedel stated the next sections to review are the G zone regulations. He said that he simplified the purpose statement by requiring that rezoning of AG land shall only be completed using the Riley County Development Guidance System adopted herein by reference. Mr. Wedel explained there will be a whole other document that will have the DGS elements, including the LESA factors.

Mr. Wedel reminded the Board that at the last meeting, the residential use designators were discussed and he made modifications to simplify the “Intent” statement. Mr. Wedel stated the intent of the residential use designators is to provide flexibility within the AG district to allow non-agricultural residential uses (i.e. residential uses not associated with an agricultural use as defined in the regulations) in agricultural areas without having to rezone to a residential district. Mr. Wedel asked the Board if this is acceptable.

The Board agreed.

Mr. Wedel said the only change to the Extraneous Farmstead was removing the requirement to have a site plan.

Mr. Wedel said the requirement to have a site plan was also removed from Reconversion Lots to encourage this option.

Diane Hoobler asked if an owner will be able to divide a 20-acre tract into 5-acre lots and sell them (in reference to a reconversion lot).

Monty Wedel explained that this option only allows the owner to divide off what is needed for the house, such as 3-5 acres, and sell the rest. Mr. Wedel said the owner will have to plat, meet sanitary code, and sign an Agricultural Protection Easement.

Monty Wedel said at this point there is no need for a site plan, since it mentions existing residence and any outbuildings. Mr. Wedel explained that if someone had 20 acres and have not developed it, the reconversion lot would not be an option.

Lorn Clement said the conditions for approval mentions existing residence but is not mentioned in the beginning paragraph. He stated the change could be in the first sentence, “individuals who have purchased a 20-acre or larger tract for the purpose of establishing a non-agricultural home site and have built the house, who may desire a smaller acreage.”

Monty Wedel stated if they have legitimately purchased 20 acres and they are free to build on it under the “grandfathered” clause. Mr. Wedel asked if these regulations are adopted and the owners of the 20-acre tract request to do a reconversion lot without an existing house, would we require them to build the house *first* then do a reconversion lot. Mr. Wedel said the reconversion lot should not be limited to parcels with existing homes.

Mr. Wedel said isolated homesites are a bit more complicated because there is not an existing residence. Mr. Wedel explained the concept and intent of an isolated homesite.

Mr. Wedel went over the conditions for approval.

1. The site must be isolated on all sides from surrounding agricultural lands by two or more of the following criteria:
 - a. Change in topography that limits the movement of farm equipment;
 - b. Water (river, stream, lake, or pond);
 - c. Significant tree stand that visually screens the site from adjoining property;
 - d. State, county or township road, not including driveways or private roads;
or
 - e. Differences in ownership that restrict access to the site.

Mr. Wedel asked if the list of conditions made sense and if the requirement for two or more (of the criteria) made sense. He said the reason to go with two or more is if they don't have a road next to the site, they would not be able to plat it. Mr. Wedel said they have to have the road and something else.

Lorn Clement suggested if a road is a universal requirement platting, then it should be included in the first paragraph of the conditions for approval and the language should be changed to "plus one of the following criteria".

Monty Wedel noted the change and reviewed the remaining criteria for isolated homesites.

Mr. Wedel asked the Board if they were okay with the language for isolated homesites.

The Board had no concerns.

Monty Wedel said final one is the Country Estate. He explained the concept and intent of the country estate designator was to allow larger estate tracts, where appropriate, to provide opportunity for larger tract residential living without creating significant blocks of residentially zoned land in the rural area.

Mr. Wedel said it has been questioned that there are areas already out there that are 20-acre tracts that are more hobby type farming. He said there are appropriate areas and the LESA will identify those areas. Mr. Wedel said approval shall only be granted following an analysis using the development guidance system and a determination that the proposal is compatible.

Bob Isaac said that along with hobby farm situations, there are people who want to have horses or a ranch, but are not considered agricultural.

Mr. Wedel said he felt there are appropriate areas for this type of situation.

Mr. Wedel said a residential use designator for a country estate is limited to one per original parent tract. He said the country estate lot must be platted and that it may not be further subdivided unless approved through the standard platting/rezoning process. He explained that the remainder of the tract is not required to be rezoned or platted. Mr. Wedel said, however, country estate parcels that are 20 acres or greater are not required to be platted, but must have adequate frontage on a public road and must meet the minimum sanitary code requirements. Mr. Wedel informed the Board that we are going to leave the 20-acre subdivision requirement as is.

Mr. Wedel said if less than 20 acres you need to have a new legal description. Mr. Wedel said an Agricultural Protection Easement (APE) and a site plan will be required.

Mr. Wedel asked the Board if they were comfortable with the Country Estate designation.

The Board agreed.

Monty Wedel said a lot of flexibility was built into the AG zone in response to eliminating the 20-acre minimum lot size. He said not everyone will be treated the same way, but the land itself will be treated the same way and is consistent with the Comprehensive Plan.

Mr. Wedel said residential use designator dimensions and development standards, residential use designator lots shall conform to the following provisions:

A. Dimensions

Residential use designator lots shall conform to all of the requirements for the AG district except that the minimum lot width required shall be 100 feet.

Mr. Wedel stated that the development standards at this time are problematic and will need further review.

Mr. Wedel said the minimum yard requirements for the entire agricultural district will remain the same at 25 (front), 10 (side) and 10 (rear). Mr. Wedel wondered if a use is agricultural exempt, can these requirements even be enforced.

Monty Wedel explained the Table of Permitted Uses, which includes permitted, conditional and special uses.

Mr. Wedel explained the use-specific standards as they apply to uses allowed by right, permitted as a conditional or special use. He stated that there also may be additional standards that are applicable to the use. He explained that the use-specific standards are noted through a cross-reference in the last column of the table, referring to Subsection 5, *Use-Specific Standards*. He said these standards apply in the district and all residential use designator lots unless otherwise specified

Mr. Wedel stated the classification of new and unlisted uses gives staff the ability to determine something new that is not listed, but may be similar in compatibility to determine the category in which it fits.

Mr. Wedel reviewed the entire Table 8.1 Ag District and Sub-District Table of Allowed Uses with the Board.

Monty Wedel said the March meeting will be the public hearing for the adoption of the Gateway Plan. Mr. Wedel said that staff will continue on the draft regulations but he will not be at the April meeting as he will be attending the National Convention.

Lorn Clement moved to adjourn. Motion seconded by Tom Taul.

The meeting was adjourned at 9:31 P.M.