

**JUNCTION CITY/GEARY COUNTY
METROPOLITAN PLANNING COMMISSION
BOARD OF ZONING APPEALS**

**November 18, 2010
7:00 P.M.**

Members Present

Brandon Dibben
Maureen Gustafson
Rick Ziegler
Ken Mortensen
Mike Ryan
Mike Steinfort

Members Absent

John Moyer

Staff

David Yearout
Shari Lenhart

1. CALL TO ORDER AND ROLL CALL

Chairman Steinfort called the meeting to order at 7:00 p.m. and noted a quorum present.

2. APPROVAL OF MINUTES

Commissioner Ryan moved to approve the minutes of the September 9th and October 14th meetings as written. Commissioner Zeigler seconded the motion and it passed unanimously.

3. OLD BUSINESS

None.

4. NEW BUSINESS

Item No. 1 – Case No. SUP-11-01-10 – Public Hearing for Special Use Permit at 4718 Liberty Hall Road

Chairman Steinfort called the public hearing to order on the request of Deanna M. Munson, agent, for Munson Angus Farms-Black Horse Hitch, LLC, and Michelle Munson, owner, on behalf of Lead Horse Technologies, Inc., tenant/lessee, for a Special Use Permit for an office use in the “A” Agricultural Zone at 4718 Liberty Hall Road, Junction City, KS.

Mr. Yearout explained the reason for this application stemmed from Lead Horse Technologies wishing to use a residential structure as a commercial office. Mr. Yearout reviewed the staff report and stated that the issues surrounding a commercial office use in the “A” district were extensively discussed earlier this year during public hearings on both the Appeal to the Board of Zoning Appeals on the Administrative Decision and on

the proposed text amendment to the Zoning Regulations to allow this type of office use by a Special Use Permit. Prior to the proposed text amendment, the Zoning Regulations required the property to be rezoned from agricultural to commercial to allow the proposed office use. The appeal was denied, but the text amendment to the Zoning Regulations was approved and became effective on August 26, 2010.

Mr. Yearout gave a brief overview of the staff report. The Special Use Permit will allow the residential home to be used as an office occupation. The only visible change made by the owners is a new ground sign identifying the business. The applicant has indicated this location is temporary and construction of a permanent facility is anticipated within the next 18 months in Junction City.

Mr. Yearout distributed copies received earlier in the day of an on-site inspection and review of the wastewater system for 4718 Liberty Hall Road, prepared by Lisa Davies, County Health Department. Her report states, if the residence is utilized for office space only, the existing system may meet the Geary County Sanitary Code. Mr. Yearout informed the Commission this was not a zoning issue but would be added to the file for information purposes. Another issue would be the building code requirements for a commercial use versus the previous residential use. The Code Enforcement office is charged with structural issues regarding the proposed commercial use of the residential building.

Mr. Yearout stated staff recommends approval of the Special Use Permit to allow an office commercial use in the "A" agricultural district as requested by the applicant, based on reasons outlined in the staff and County Health Department reports.

Chairman Steinfort asked if there were any questions regarding the staff report. Several Commissioners asked how the Special Use Permit would apply to the property and this use.

Mr. Yearout explained that unless time limits are imposed, the Special Use would stay in place and the structure could be used for an office use regardless of the tenant. No action would be required to revert back to a residential use. Mr. Yearout stated that staff is not recommending any time constraints or conditions attached to the Special Use Permit, but is aware it has been discussed and the MPC should determine what it feels is appropriate for this situation. Generally, staff will recommend that any Special Use Permit run with the land unless circumstances warrant restrictions. The Sanitation Code and building codes will limit the intensity of the commercial office use unless significant modifications to the building and property are made. Staff is under the understanding the owners do not intend to do those modifications.

Chairman Steinfort opened the public hearing for comments from the public.

Chuck Munson, applicant, stated they have no plans beyond allowing Lead Horse Technology to occupy the property or any other commercial endeavor. He stated he felt this is the best way to handle this situation. There is no desire to rezone the property to

commercial. The owners prefer to remain zoned for agricultural uses. The Special Use Permit is a very sensible way to accommodate Lead Horse Technology.

Ramie Leibnitz, representing Lead Horse Technology, stated they hope to relocate to a new building within one and a half to two years, more or less. It depends on the continued growth of the company.

There being no other appearances or questions, Chairman Steinfort closed the public hearing.

The Commission discussed the pros and cons of imposing a time limit and what that would mean in the event conditions don't work as planned. It was acknowledged that the Special Use Permit could be requested to be renewed or extended if necessary. It was the consensus of the Commission that a two year limit would be reasonable.

Commissioner Zeigler moved that Case No. SUP-11-01-10, the application of Chuck and Deanna Munson, agents, on behalf of Munson Angus Farms-Black Horse Hitch, LLC; and Michelle Munson, owner, on behalf of Lead Horse Technologies, Inc., tenant/lessee, requesting a Special Use Permit to allow the existing residential structure at 4718 Liberty Hall Road to be used as a commercial office for Lead Horse Technologies, be recommended for approval to the Board of County Commissioners, subject to a two (2) year time limit, based on the findings outlined in the staff report and as presented at the public hearing. Commissioner Ryan seconded the motion and it carried unanimously.

Item No. 2 – Case No. Z-11-01-10 - Public Hearing to Rezone Property at the NW corner of McFarland Road and Caroline Avenue

Chairman Steinfort called the public hearing to order on the application of Kaw Valley Engineering, agent, on behalf of Ernest Baszak, owner, for rezoning of Lot 24, a replat of Michael's Run, from "CSR" Service Commercial Restricted to "PDD" Planned Development District to allow redevelopment of the property into a duplex residential neighborhood. He noted this property is located at the northwest corner of McFarland Road and Caroline Avenue.

Mr. Yearout reviewed the staff report, which outlines the history of this property. In February of 2007, a Replat of Michael's Run was approved, and Lot 24 was designated for commercial development. That has not materialized; therefore, Mr. Baszak now wishes to rezone the property for duplex development. It was determined the best avenue would be a Planned Development District which gives the developer flexibility relating to setbacks, total lot coverage, easements, and other issues. The proposal is for eight (8) lots with sixteen (16) individual units. According to the applicant, the intent at this point is for these to be for sale units and not rentals. There is also a desire to construct these aimed at the "seniors" market and construct upper-end units accordingly.

Mr. Yearout noted minor wording changes on the Final Development plan submitted earlier to the agent had already been made on the revised drawing provided at the meeting.

Mr. Yearout stated since this is a new design for an undeveloped property that has all infrastructure in place, this is the most expeditious and simple approach to deal with the desires of the applicant. The applicant will be required to submit a replat for Lot 24. The plat will address issues regarding easements, which are not made official by showing them on the development plan.

Mr. Yearout stated restrictive covenants have not been presented yet and, if this application is approved, covenant issues need to be resolved prior to submittal to the City Commission. The existing covenants for the residential properties do not apply to this lot, so new ones will be necessary. The applicant is aware of this need and will be preparing those documents.

Mr. Yearout stated staff recommends approval of the rezoning because it is in keeping with the surrounding development will contribute to the community and will allow the project to move forward.

Chairman Steinfert opened the public hearing for public comment.

Mr. Ernie Baszak, applicant, stated there are ten (10) homes in the residential portion of the project at this time and he believes commercial development is no longer appropriate for this lot. The proposed duplexes will enhance the area. He provided an artist rendering of the proposed buildings and explained they will look more like a villa and are one level. The units are 2 and 3 bedroom, with wider doors and a two-car garage. These units are geared toward the empty nest couples and caregivers. There are individuals now who are interested in purchasing this type of unit. This will work out really well for the community and allow development of an area that has remained vacant.

In response to Commissioners' questions, Mr. Baszak reiterated that the specials are coming due, covenants will be prepared, each unit will have a safe room, each unit is approximately 1400 square feet, and he believes there is a need and desire for this type of housing.

Mr. Ty Arveson, 1911 McFarland Road, stated there are nice houses in this area and would like to see it continue. He and his wife are in agreement with the proposed development. They would like to see the area develop residentially rather than commercial uses.

There being no other appearances or questions, Chairman Steinfert closed the public hearing. There being no further discussion or questions, Chairman Steinfert asked for a motion.

Commissioner Zeigler moved that Case No. Z-11-01-10, concerning the request of Kaw Valley Engineering, agent, on behalf of Ernest Baszak, owner, for rezoning of Lot 24, A Replat of Michael's Run, located at the northwest corner of McFarland Road and Caroline Avenue, from "CSR" Service Commercial Restricted to "PDD" Planned Development District to allow redevelopment of the property into a duplex residential neighborhood be

recommended for approval by the City Commission, subject to the applicant filing appropriate covenants, a replat for Lot 24, and incorporating changes as modified at this meeting in the Final Development Plan, based on the reasons stated in the staff report and as presented at this public hearing. Commissioner Gustafson seconded the motion and it carried unanimously.

RECESS AS METROPOLITAN PLANNING COMMISSION

Commissioner Gustafson moved to recess as the Metropolitan Planning Commission and convene as the Board of Zoning Appeals. Commissioner Mortensen seconded the motion and it carried unanimously.

CONVENE AS BOARD OF ZONING APPEALS

- 1. OLD BUSINESS – None**
- 2. NEW BUSINESS**

Item No. 1 – Case No. BZAV-11-01-10 – Public Hearing for a Variance at 340 West 8th Street.

Chairman Steinfort called the public hearing to order on the application of Daniel Pfizenmaier, Director of Self Help Housing, agent, on behalf of Kimberly Smith, owner, requesting a variance to decrease the street side yard and interior side yard setbacks at 340 West 8th Street, Junction City, Kansas.

Mr. Yearout stated this is a corner lot that, under the Zoning Regulations, is required to provide a full 25 feet of setback from the property line on all street frontages and an interior side yard setback of 8 feet. The applicant is proposing to reduce the street side yard setback by approximately 2 feet and the interior side yard setback to 5 feet. He indicated this request is similar to other corner lot variance requested within the City. The site plan, prepared by Kaw Valley Engineering, delineates exactly where the variances are needed.

Mr. Yearout reviewed the staff report. The house burnt and now Self Help Housing desires to rebuild. This will be a positive use of the lot and consistent with the neighborhood. He stated staff recommends approval of the requested variance based on the findings as outlined in the staff report.

Daniel Pfizenmaier, Director of Self Help Housing, indicated he had nothing else to add but would be willing to answer any questions the Commissioners might have.

There being no other appearances, Chairman Steinfort closed the public hearing. There being no further questions or discussion, Chairman Steinfort asked for a motion.

Commissioner Ryan moved that Case No. BZAV-11-01-10, the request of Daniel Pfizenmaier, Director, Self Help Housing for a variance in both the street side yard setbacks and the interior side yard setbacks on property located at 340 West 8th Street be so ordered by the Board of Zoning Appeals, thereby allowing the construction of the new home with a street side yard setback of 23 feet and an interior side yard setback of 5 feet. Commissioner Zeigler seconded the motion and it carried unanimously.

Item No. 2 – Case No. BZAV-11-02-10 – Public Hearing for a Variance at 1304 North Eisenhower Drive

Chairman Steinfort called the public hearing to order on the application of Daniel Pfizenmaier, Director of Self Help Housing, agent, on behalf of Jessica Zander, owner, requesting a decrease in the side yard setbacks at 1304 North Eisenhower Drive, Junction City, Kansas.

Mr. Yearout reviewed the staff report. The proposed development by Self Help Housing will be a great improvement to the neighborhood. This is an interior lot that under the Zoning Regulations, is required to provide an interior side yard setback of 8 feet on both sides of the structure. The applicant is requesting that the south side yard be reduced to 5 feet; and the north side yard be reduced to a little over 6 feet. Self Help is proposing to construct a new home in a manner similar to other existing homes in the neighborhood. The site plan, prepared by Kaw Valley Engineering, shows where the structure will be built and the variances needed. Strict application of the current Zoning Regulations would put a hardship on development of this lot. Staff recommends the requested side yard variances be approved based on findings set out in the staff report.

Mr. Yearout stated that he received several phone calls on this application. After explanation, there were no objections from any of the callers.

Daniel Pfizenmaier, Director of Self Help Housing, stated the site plan indicates, as close as possible, the proposed side yard setbacks of 5 feet and 6.86 feet. He stated the proposed home is consistent with others in the area.

There being no further discussion or questions, Chairman Steinfort asked for a motion.

Commissioner Mortensen moved that Case No. BZAV-11-02-10, the request of Daniel Pfizenmaier, Director, Self Help Housing for a variance in the interior side yard setbacks on property located at 1304 North Eisenhower Street be so ordered by the Board of Zoning Appeals, thereby allowing the construction of the new home with interior side yard setbacks of 5 feet on the south side and 6.86 feet on the north side of the lot. Commissioner Ryan seconded the motion and it carried unanimously.

ADJOURN AS BOARD OF ZONING APPEALS

Commissioner Gustafson moved to adjourn as the Board of Zoning Appeals and reconvene as the Metropolitan Planning Commission. Commissioner Ziegler seconded the motion and it carried unanimously.

RECONVENE AS METROPOLITAN PLANNING COMMISSION

5. GENERAL DISCUSSION

Mr. Yearout stated he has been in contact with the Professor at K-State regarding another student study. This will be a corridor study of Rucker Road from K-18 Highway to US 77 and will include specific focus on the Helland property the City received for park uses. It appears the Landscape Architecture Department students may be involved in the study in order to provide some design alternatives. More information will be made available as we get closer to next semester.

Mr. Yearout noted there are no new cases for the December 9th meeting. He suggested the December 16th work session be moved to December 9th. Commissioners agreed.

Mr. Yearout stated staff has received the first January case, a Special Use Permit request from Verizon Wireless proposing to install a communication tower in the southeast corner of the Highland Cemetery.

Several Commissioners asked for additional information on restrictive covenants, specifically what they do and how they are enforced. Mr. Yearout stated covenants normally address aesthetic issues with a development and do things such as specifying minimum square footage of homes, types of construction materials that can be use, other limitations on accessory buildings, and similar things that are permitted by City rules and regulations but which the developer does not want to occur. Enforcement is the responsibility of the developer initially; but in time it falls to the home owners. In the current Zoning Regulations, the City is potentially jointly responsible to enforce covenants in Planned Development Districts, but staff has worked with the City Attorney and is refusing to take that responsibility in the PDD projects that have been approved recently. The new regulations will eliminate that provision.

6. ADJOURNMENT

There being no further business, Commissioner Mortensen moved to adjourn at 7:50 p.m. Commissioner Ryan seconded the motion and it carried unanimously.

PASSED AND APPROVED this _____ day of December, 2010.

Mike Steinfort, Chairman

ATTEST:

David L. Yearout, AICP, Secretary