

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

**MINUTES**

**April 14, 2011  
7:00 P.M.**

**Members Present**

Maureen Gustafson  
Ken Mortensen  
Brandon Dibben  
John Moyer  
Mike Ryan

**Members Absent**

Mike Steinfort  
Rick Ziegler

**Staff**

David Yearout  
Shari Lenhart

**1. CALL TO ORDER AND ROLL CALL**

Vice-Chair Gustafson called the meeting to order at 7:00 p.m. and noted a quorum present with Commissioners Steinfort and Ziegler absent.

**2. APPROVAL OF MINUTES**

Commissioner Mortensen moved to approve the minutes of the March 10<sup>th</sup> meeting. Commissioner Dibben seconded the motion and it passed unanimously.

**3. OLD BUSINESS**

**Item No. 1 – Report on Review of Johnson’s Portable Toilet Service (BZACU-02-01-10)**

Vice-Chair Gustafson opened the discussion and asked if it should be heard as the Board of Zoning Appeals. Mr. Yearout stated this is simply a review and no action is anticipated; therefore, no need to formally convene as the Board of Zoning Appeals.

Mr. Yearout stated one of the conditions for the original approval was an annual review. Neighbors expressed numerous objections to the operation and the Conditional Use had specific conditions attached. Lisa Davies, Geary County

Health Department, has conducted the on-site inspections as required by the Conditional Use Permit and copies of her report have been provided.

Lisa Davies, Geary County Health Department, briefly expanded on the information provided in her reported dated April 12, 2011, and also presented copies of water well records to the Commissioners. Ms. Davies stated that her inspection showed the portable toilets are now cleaned on a concrete pad with proper drainage, and the used rags/towels are placed in a shed. Separate solid waste disposal is provided by a commercial contractor and all operations appear to be complying with the Conditional Use Permit provisions, and all required improvements and repairs have been implemented.

It was the consensus of the Commission that the portable toilet service business at 1725 Walker Road is adhering to the Conditional Use Permit provisions and doing what they said they would do. They thanked Ms. Davies for her report and determined that no further action is necessary at this time.

#### **4. NEW BUSINESS**

##### **Item No. 1 – Case No. SUP-04-01-11 – Public Hearing on Special Use Permit application at 10430 Ava Road, Junction City, Kansas.**

Vice-Chair Gustafson opened the public hearing on the application of Mark Newman, agent, for Ria M. Hendrick, owner, requesting a Special Use Permit to allow a garage apartment as a second dwelling on property located at 10430 Ava Road, Junction City, Kansas.

Mr. Yearout stated this case began when a prospective buyer inquired whether the apartment could be rented. This led to the discovery the building permit for the accessory garage noted the storage space on the second floor, but no indication of the conversion to an apartment. This resulted in numerous other actions being initiated, including the text amendment to the Geary County Zoning Regulations for the Special Use Permit process being used in this case; as well as actions being addressed through the Code Enforcement Department and the County Health Department.

Mr. Yearout reviewed the staff report outlining the background information given above, as well as the staff opinion that a rezoning of this property would be neither practical nor reasonable. As such, staff is recommending approval of the application, subject to requirements and conditions outlined in the staff report.

Mr. Yearout reported that Mark Karmann, Code Enforcement Inspector, visited the site and everything appears fine; however, no permits were obtained to convert the garage for residential use. Mr. Yearout reported that Lisa Davies also made an on-site inspection. Copies of her report and site diagram were provided for the Commissioners review.

Ms. Davies stated that the current system needs to be rebuilt. The County Sanitation Code does not allow for more than one residence per on-site system without obtaining a variance from the County Commission. The water source is from a private well because rural water is not available at this site.

Mr. Yearout stated that a letter in opposition to the request was received March 31<sup>st</sup> from Ronald and Patricia Osterman, 10211 Ava Road. A copy of the letter was provided in Commissioners packets.

Commissioner Ryan asked if there was a firewall between the garage and the living quarters. Mr. Yearout stated he was not sure and would have to ask the Code Enforcement Office to make that determination.

Vice-Chair Gustafson asked if the owner could chose to use the residences as rental units. Mr. Yearout said yes, since the Zoning Regulations place no restrictions that a dwelling must be owner-occupied.

There being on further questions of staff, Vice-Chair Gustafson opened the hearing for public comments.

Mr. Mark Newman, stated he was Mrs. Hendrick's son-in-law and acting as her agent. Originally, the reason for renovating the storage area into living quarters was because he and his wife were moving back to help care for and provide additional financial assistance to Mrs. Hendrick. Mr. Newman stated his wife recently passed away and his mother-in-law has moved to the City. Therefore, the property is being sold.

Mr. Newman stated DS&O electric has placed two meters at the property for each dwelling; however, all the utilities are under one name and it is treated as one service. He stated the potential buyer has indicated that both residences will be occupied by family members only.

Commissioner Mortensen asked Mr. Newman what the intentions are regarding the septic system problem. Mr. Newman stated he is aware there are significant problems with the current system. He stated he is working with Lisa Davies to have a system designed to her specifications that will replace the existing system and meet County Sanitation Code requirements.

Commissioner Mortensen also asked if there were any penalties assessed for lack of securing a permit. Mr. Newman stated he did rectify that issue by obtaining a permit and all the required building permit fees were paid. Staff confirmed that had been done.

There being no further appearances, Vice-Chair Gustafson closed the public hearing.

Commissioner Mortensen moved that Case No. SUP-04-01-11, the application of Mark Newman, agent, for Ria M. Hendrick, owner, requesting a Special Use Permit to allow a second-floor apartment in an accessory garage as a second dwelling on property located at 10430 Ava Road, Junction City, Kansas, be recommended for approval by the Board of County Commissioners with the conditions that all Building and Sanitation Codes of Geary County be met, and the utility service be maintained in one name. The recommendation is based on the findings outlined in the staff report and as presented at the public hearing. Commissioner Ryan seconded the motion and it passed unanimously.

Mr. Yearout stated this case would be considered by the Board of County Commissioners on May 9<sup>th</sup> at 2 p.m.

**Item No. 2 – Case no. SUP-04-02-11 – Public Hearing on Special Use Permit application at 7326 Laurel Canyon Road, Junction City, Kansas.**

Vice-Chair Gustafson opened the public hearing on the application of Paula Juarez and Dewey Barton, owners, requesting a Special Use Permit to allow boat/camper storage as an accessory use on property at 7326 Laurel Canyon Road, Junction City, Kansas.

Mr. Yearout briefly outlined the information contained in the staff report on the history of this property. Through the years, individuals just started parking their boats/campers at this location. Previous owners were notified such use violated the County Zoning Regulations, but evidence shows persons continued to use the property for parking/storage of boats and campers.

Previous owners had applied for rezoning to expand the bait shop and accommodate the boat/camper storage. None of the requests were ever successful. The records indicate several reasons for the denials in the past, mostly due to concerns the more expansive commercial zoning would allow uses more incompatible with the area; as well as concerns on the lack of the extension of the utilities and neighborhood opposition.

As previously mentioned, Mr. Yearout noted the recent amendment to the Geary County Zoning Regulations provides the Special Use Permit approach to limit to additional uses to just those requested. Mr. Yearout referred to the 2008 aerial photo showing several trailers parked at this location. The current owners indicate that the units continue to “just show up” and they would like to “legitimize” this land use which would also allow for better business management.

Mr. Yearout said that after an on-site visit, staff is of the opinion that fencing the entire area is not necessary due to a deep ditch bordering the property. As stated in the staff report, screening of the storage area could enhance the potential for nefarious uses and the neighborhood residences did not object to the parking of the

units during the public hearings on the rezoning applications in the past as much as being opposed to the other allowed uses.

Mr. Yearout stated that staff is recommending approval of the SUP because the use is compatible with the area and will place no further demands on the sewage system. He suggested a more detailed site plan should be provided to delineate the storage.

Commissioner Moyer asked if conditions could be set for the Special Use Permit. Mr. Yearout stated yes, but reminded the Planning Commission theirs was a recommendation and the Board of County Commissioners would be making the final decision on the approval.

Paula Juarez, 717 East 11<sup>th</sup>, Junction City, Kansas, owner and applicant, stated her request was only for seasonal use, basically from April through October, which is when the bait shop was open. She stated there would be no other buildings constructed and that the use of the storage area would primarily be on weekends during the season. There may be some weekly or monthly use, but that will probably be limited. The boats and campers are mostly owned by individuals camping in the Curtis Creek area who do not want to haul them back and forth during the season. There are normally 6 to 8 campers and/or boats; however, the proposed area will accommodate up to 20 spaces as designed. The designated area is only 100 feet by 150 feet. Ms. Juarez provided a sketch depicting the storage area.

There being no further questions of staff, Vice-Chair Gustafson opened the hearing for public comments.

Steve Havener, 6914 Canyon Road, stated he is not in opposition to the bait shop and that Ms. Juarez and Mr. Barton have done a marvelous job cleaning up the shop and surrounding area. But he was opposed to the outdoor storage use. He believed this will be putting an industrial use right at the entrance to a very nice secluded residential area. The property taxes for this area produce a lot of revenue and this detraction will result in a drop in property values. People do not want to enter an area and see parked boats and campers.

Mr. Havener also stated he didn't believe there is a compelling reason to allow the parking of boats/campers at this location. There are at least six other properly zoned sites within 10 miles for boat and camper storage. Approving this permit would be doing a great job of rewarding bad practices.

Commissioners questioned Mr. Havener about the bait shop and the storage of boats/campers not being a new concept at this location. Mr. Havener stated his concerns rest with the fact that the Special Use Permit stays with the property and future owners may not keep it up. He stated he did not want to see an industrial use started because his property values will drop.

Commissioners asked if a privacy fence around the storage area would help. Mr. Havener indicated lighting would be a distraction and there are neighborhood concerns.

Commissioner Mortensen stated he believed all homes have been "de-valued" because of a depressed real estate market and the proposed use will not contribute to that issue.

Mark Floberg, 7604 Canyon Road, stated this is the only entrance to the residential area and property owners do not want to distract from the nice residential area with boats/campers at the entrance. There are several acres of vacant ground bordering the neighborhood and if this location is approved, the neighborhood will have to deal with the same issue when other owners want to put boat/camper storage on other vacant lots.

Mr. Floberg stated he has no problem with the applicants because they have vastly improved the area and are fantastic with the kids when they go to the bait shop. But he was opposed to the storage area because he felt there were plenty of other storage areas within ten miles of this location.

There being no further appearances, Vice-Chair Gustafson closed the public hearing.

Commissioners discussed many issues including maintenance of the storage area, the benefit of placing gravel/rock in the storage area, clarifying the size of the storage area, constructing a privacy fence around all or part of the storage area, additional security lighting, types of screening, requiring a modified site plan, and whether any review would be necessary.

Commissioner Mortensen moved that Case No. SUP-04-02-11, application of Paula Juarez and Dewey Barton, owners, requesting a Special Use Permit to allow boat/camper outdoor storage as an accessory use on property at 7326 Laurel Canyon Road, Junction City, Kansas, be recommended for approval to the Board of County Commissioners with the following stipulations:

1. The outdoor storage area be limited to 100 feet by 150 feet;
2. The East and South sides of the outdoor storage area be screened with a solid six-foot (6') wood privacy fence;
3. The outdoor storage area open for occupancy from April 1 to October 31 yearly;
4. The outdoor storage area be graveled or rocked;

5. The outdoor storage area be inspected on a yearly basis and a report submitted to the MPC for review; and
6. A revised site plan be submitted designating the location of the outdoor storage area;

Commissioner Mortensen noted his reasoning for the motion was based on the findings outlined in the staff report and as presented at this public hearing. Commissioner Moyer seconded the motion and it carried unanimously.

Mr. Yearout stated this case would be considered by the Board of County Commissioners on May 9<sup>th</sup> at 2 p.m.

**5. GENERAL DISCUSSION - None**

**6. ADJOURNMENT**

There being no further business, Commissioner Ryan moved to adjourn at 8:27 p.m. Commissioner Dibben seconded the motion and it carried unanimously.

**PASSED AND APPROVED this \_\_\_\_\_ day of May, 2011.**

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**Mike Steinfert, Chairman**

**ATTEST:**

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**David L. Yearout, AICP, Secretary**