

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

MINUTES

October 13, 2011
7:00 P.M.

**Members
(Present)**

**Members
(Absent)**

Staff

Brandon Dibben
Maureen Gustafson
Ken Mortensen
John Moyer
Mike Ryan
Mike Watson
Mike Steinfort

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 all members present.

2. APPROVAL OF MINUTES

Commissioner Mortensen moved to approve the minutes of the September 8, 2011, meeting as presented. Commissioner Moyer seconded the motion and it passed unanimously.

3. OLD BUSINESS - None

4. NEW BUSINESS

Item No. 1 – Case No. SUP-10-01-11 – Public hearing on the application for a Special Use Permit to install a 130-foot monopole communications tower on property northeast of the intersection of K-244 and K-244 Spur in Geary County, Kansas.

Chairman Steinfort opened the public hearing on the application of SSC, Inc., agent, for Verizon Wireless, lessee, on behalf of Kenneth C. Goreham, owner, requesting a Special Use Permit to install a communications tower on property located northeast of the intersection of K-244 and K-244 Spur in Geary County.

Mr. Yearout reported this location is to enhance the ability of Verizon to serve the area northwest of Junction City and into the Milford Lake area. Mr. Yearout noted that the County Zoning Regulations were amended in 2010 to address communication towers through the Special Use Permit process. This is the second such case since those amendments.

Mr. Yearout explained this tower is not proposed to be tall enough to require lighting under the FAA requirements. He also stated comments were received from Ft. Riley indicating no objections to the proposed tower. Mr. Yearout noted the tower location meets the setback requirements from the property lines; that access will be from an existing field entrance off K-244 Highway; the lease compound for the tower is behind an existing shed with some additional screening by trees to the east; that the design standards to carry the number of antennas required

by the Zoning Regulations will be confirmed through the building permit application and that no permit will be issued if those standards are not met; the reclamation requirements are contained in the land lease; and all other supporting documents have been provided. Mr. Yearout stated staff is recommending approval of the Special Use Permit for the reasons stated in the staff report.

Commissioner Mortensen asked about the requirement to show that no other existing tower or similar structure would work, which was a big issue for the tower proposed at Highland Cemetery in the City. Mr. Yearout stated staff believed the information provided showed the existing tower structures will not provide the needs for Verizon for this area; which is why this location is recommended for approval.

Commissioner Gustafson asked about the reclamation plan and whether or not a bond should be locally required. Mr. Yearout indicated the lease agreement details the reclamation requirements between the leaseholder and the property owner. The Zoning Regulations allow that and, in staff's opinion, this is a better arrangement than have the public involved in trying to resolve the reclamation.

Commissioner Moyer inquired whether the tower on Highway 77 could be use. Mr. Yearout stated the applicant can address that better, but the documentation indicates that tower will not provide adequate coverage for this area.

Chairman Steinfort questioned the setback of 75 feet from the east property line. He stated the Zoning Regulations require a setback equal to the height of the tower, which in the case would be 130 feet. Mr. Yearout stated he had erred in noting the setback met requirements in the staff report. It is the City Zoning Regulations that set a minimum setback for a monopole of $\frac{1}{2}$ the height. He did state the Metropolitan Planning Commission could recommend the setback requirement be reduced to what is proposed, or it could recommend the tower be relocated to meet the setback requirement of the Zoning Regulations.

Commissioner Ryan asked about whether the air space analysis report should be a signed copy for the file. Mr. Yearout indicated the version received was via email and did not include a signature, but that a signed copy could be requested and should not be a problem to obtain.

Commissioners Watson and Mortensen questioned whether a light should be required even though the FAA does not mandate lighting for towers less than 200 feet.

There being no further questions of staff, Chairman Steinfort opened the hearing for public comments.

Justin Anderson, agent for the applicant, SSC, Inc., stated he was in agreement with the staff report recommendations and comments. Mr. Anderson said the desired documentation will be provided and that he was open for questions from the Commission.

Commissioner Moyer asked if the tower could be setback 130 feet from the east property line. Mr. Anderson indicated it would entail another survey. He stated the current placement screens the base of the tower and if moved west another 55 feet it would be visible from the highway. Mr. Anderson stated the monopole is designed to collapse on itself in the event of a structural failure. As such, he believed a 75-foot setback is more than adequate to protect adjoining properties. Mr. Anderson offered to supply structural engineering reports for further documentation of this fact. Mr. Yearout stated staff is aware that monopole towers have often been the only structure left standing in the aftermath of a tornado or hurricane.

Chairman Steinfort asked why this location was needed for this service area because there is another tower within three miles. Mr. Anderson stated it has to do with capacity use. The

existing towers in the area did not work for the RF engineers, including the tower along Highway 77. If an existing tower was available and could meet its needs, Verizon would collocate on that tower to avoid the costs associated with the construction of a new tower.

Commissioner Watson asked if the tower would be available to emergency agencies. Mr. Anderson indicated it would. Mr. Yearout noted that the Zoning Regulations envision a design capacity to accommodate other users such as for emergency operations; however a request to gift such space is not appropriate.

Marilyn Wasyk, 3708 West Highway K-244, stated she had a petition in opposition she wished to present to the Commission. Mr. Yearout informed Ms. Wasyk she should not present the petition to the Planning Commission. He explained that state law stipulates for a petition to be valid, it is to be submitted to the County Clerk during the official protest period. The Clerk is to verify the landowner signatures and if it is determined to be a valid petition. A three-fourths (3/4) majority vote of the County Commission is required to approve the request. Ms. Wasyk then made a brief statement that she and others are in opposition because of the potential harm to wildlife in the area and all the migratory birds. She stated in her opinion, this tower will devalue property and could be a health hazard. Ms. Wasyk stated her home was immediately adjacent to the east of the location for the tower.

Charles Howe, 3461 Trail Road, stated he had worked as a district wildlife biologist in the area for 12 years. There have been 15,000 to 25,000 migratory birds counted in the area. He stated he believed this tower would be a detriment to the migratory birds. He believed the guy wires would be a potential "killing" zone. The location borders Corps of Engineer ground and he believed an environmental wildlife impact statement should be required. This is a major migratory area and there is a concern for migratory birds, especially for water fowl.

Susan Watt stated Marilyn Wasyk is her mother, and that her family and her aunts and uncles live in the area and the tower will be right in the back yard of the homestead. She noted that Mr. Goreham does not live on the property, and there is only a barn on the property. She concluded by stating that her entire family is in opposition to the proposed tower.

Kenneth Goreham, 703 West Ash, stated the initial location discussed for the tower was the intersection of K-244 and K-244 Spur. That location was not acceptable because, in his opinion, it made the tower too visible. He stated the proposed location for the tower would be screened by the barn and would not be seen from the highway. The trees to the west provide the same type of visual screening. He stated if lighting is required, he would think the red light at night would be okay, but a white flashing light might be a problem.

In response to issues raised by the public, Mr. Anderson stated there are no reports proving that these towers devalue property. They might not be the best looking structure but they provide a service for the community as we continue moving into the technology era. This is a monopole tower and does not have guy wires. There are several different impact studies prepared for every tower including this one. These impact evaluations address, among other things, impact potential on wildlife and historical sites. If any of these reports come back with a negative impact, the tower will not be built.

There being no further appearances, Chairman Steinfort closed the public hearing and called for discussion from the Commission.

Commissioners discussed whether to require the 130-foot setback from the east property line, requiring the different environmental reports and requiring lighting on top of the tower. There being no further discussion, Chairman Steinfort called for a motion.

Commissioner Mortensen moved to recommend approval of Case No. SUP-10-01-11, the application of SSC, Inc., agent for Verizon Wireless, lessee, on behalf of Kenneth C. Goreham, owner, requesting a Special Use Permit to install a communications tower on the property north of K-244 and east of K-244 Spur to the Board of County Commissioners of Geary County, Kansas, subject to the conditions stated in the staff report concerning documentation of meeting the design standards at the time of the building permit application and providing documentation regarding reclamation; with additional conditions to require the 130-foot setback from all property lines, the installation of lighting on top of the tower meeting the standards of the Zoning Regulations, and provide copies of all the environmental, wildlife and historic reports to the staff for the files; based on the reasons outlined in the staff report and as presented at the public hearing. Commissioner Ryan seconded the motion and it carried unanimously.

Mr. Yearout stated that this would be considered by the County Commission at their November 7th meeting.

Item No. 2 – Case No. Z-10-01-11 - Public hearing to rezone property located east of Spring Valley Road and north of Ponca Drive in Junction City, Kansas.

Chairman Steinfort opened the public hearing on the application of Kaw Valley Engineering, agent, on behalf of RMD Investments, LLC, owner, requesting to rezone from “A” Agricultural District to “RS” Suburban Residential District the property located on the east side of Spring Valley Road and north of Ponca Drive and north of Indian Ridge Unit No. 6, containing approximately 11.43 acres.

Mr. Yearout stated this property was annexed by the City in December of 2006, but retained the county zoning classification of “A” Agricultural. The rezoning of the property to a city residential district will allow the development of the property. The proposed “RS” Suburban Residential district is the most restrictive residential classification in the City Zoning Regulations. The proposed preliminary plat outlines large single-family lots in conformance with the “RS” district. Staff believes this is a reasonable zoning classification for the property and is in keeping with the general development of the area. Mr. Yearout stated that staff recommends approval.

There being no questions of staff, Chairman Steinfort asked if there was anyone present wishing to speak on this matter.

Leon Osbourn from Kaw Valley Engineering, agent, stated this rezoning request is to accommodate the planned residential development of the owners. Mr. Osbourn stated he concurred with the staff report and was available to answer questions.

Commissioner Gustafson inquired about water run-off. Mr. Osbourn stated storm drainage improvements had been installed along Spring Valley Road when that was reconstructed in 2009. Those improvements were more than adequate to accommodate the development of this land. Mr. Yearout noted that the specifics of infrastructure design would be addressed on the preliminary plat.

There being no other appearances or questions, Chairman Steinfort closed the public hearing and called for a motion.

Commissioner Mortensen moved that Case No. Z-10-01-11, the request of Kaw Valley Engineering, agent, on behalf of RMD Investments, LLC, owner, to rezone from “A” Agricultural District to “RS” Suburban Residential District the property east of Spring Valley Road and north of Indian Ridge Unit No. 6 in Junction City, Kansas, be recommended for approval by the City Commission based on the reasoning stated in the staff report and as presented at this public hearing. Commissioner Gustafson seconded the motion and it carried unanimously.

Item No. 3 – Case No. PP-10-01-11 – Preliminary Plat for Quarry Oaks Addition Unit No. 1 (RMD Investments/KVE)

Chairman Steinfort stated this was the application of Kaw Valley Engineering, agent, on behalf of RMD Investments, LLC, owner, requesting preliminary plat approval for development to be known as Quarry Oaks Addition Unit No. 1, being located on the east side of Spring Valley Road and north of Ponca Drive containing approximately 11.43 acres. He noted this was the property just considered for Suburban Residential zoning.

Mr. Yearout stated the plat proposes to create a total of 20 lots. Four of the lots will face Spring Valley Road. A plat review meeting was held October 6th with the various utility companies, City staff and the applicant present. The outcome of that meeting recommended some general changes to the preliminary plat regarding location of the easements providing utility services. Kaw Valley has incorporated the suggested changes and provided a revised preliminary plat for the MPC. Copies of Kaw Valley's letter, delineating the changes, and revised preliminary plat were presented for review. Mr. Yearout indicated one of the main revisions was the relocation of the sanitary sewers for Lots 14-20 from the rear of the lots to the front of the lots along Navajo Drive. This would allow access for maintenance in the future in a more reasonable manner. The other modifications would be reviewed by the applicant. Staff is recommending approval of the revised preliminary plat as presented.

There being no questions of staff, Chairman Steinfort opened the meeting for discussion with the applicant.

Mr. Leon Osbourn of Kaw Valley Engineering briefly reviewed the revised preliminary plat and noted that staff had identified the modifications. Mr. Osbourn stated the revised location of the sewers along Navajo Drive would work for the homes, even though they would be deeper than if placed in the rear of the lots; however he acknowledged the front location worked better in the long run because maintenance could be performed without need to gain access to rear yards. That was important since the terrain would make such access difficult and would potentially be disruptive to homeowners. All other changes regarding looping of the water service through the development to Spring Valley Road and location of fire hydrants had been shown on the revised preliminary plat.

Questions were raised regarding the manner in which this development might integrate with further development to the north. Mr. Osbourn noted the sketch plans that had been done for the other property to the north and noted the topography would not allow reasonable extension of the road system to connect further to the north, which is why this plat shows the extension of Navajo Drive as a cul-de-sac. Future development of the land to the north, which will occur eventually, will be served by its own road coming from Spring Valley Road. The sketch plans showed how that might occur in the future; and also generally showed how drainage and other utility needs would be extended to that area. This plat fits with the overall plans in the future.

Mr. Yearout noted staff had requested the sketch plan be included in the overall presentation to show how this plat integrates with the potential future development. Staff believed this presentation meets that request and should help show the MPC how this will work over time.

There being no further comments or questions, Commissioner Moyer moved to approve the revised version of the preliminary plat of Quarry Oaks Addition Unit No. 1 as presented showing the modifications recommended by staff and the plat review committee. Commissioner Dibben seconded the motion and it carried unanimously.

Mr. Yearout noted this action would allow the preparation of the final plat, which would be the document for recording after approval by the MPC and the City Commission.

RECESS AS METROPOLITAN PLANNING COMMISSION AND CONVENE AS BOARD OF ZONING APPEALS

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

5. OLD BUSINESS – None

6. NEW BUSINESS

Item No. 1 - Case No. BZAV-10-01-11 – Public hearing on the application for Variance at 1208 Highland Drive, Junction City, Kansas.

Chairman Steinfort called the public hearing to order on the application of Sisenando Padilla, owner, requesting a variance to decrease the side yard setback along the west property line at 1208 Highland Drive, Junction City, Kansas, to allow existing detached building.

Mr. Yearout noted this request is the result of a zoning violation notice that was sent to Mr. Padilla concerning the erection of his accessory building without a building permit and the potential of a setback violation because of the location of the building. Mr. Yearout said the concern was originally with the rear yard setbacks due to the location of the building in respect to the existing power lines and the utility easement along the rear lot line. Mr. Padilla had the property surveyed and it was determined there was no encroachment of the building into the utility easement along the rear lot line; however the survey showed the building was almost on the side lot line to the west. Mr. Padilla elected to request the variance to allow the building to remain.

Mr. Yearout stated staff believed the hardship created from this situation was self-imposed by the applicant which, according to State statutes and the Zoning Regulations, must result in denial of the variance. Mr. Yearout reviewed the five criteria which must be found present for the Board of Zoning Appeals to be able to grant the variance and, if a finding of a self-imposed hardship is made, then the variance must be denied. Mr. Yearout noted the history of this situation as outlined in the staff report and acknowledged more could have been done to avoid this situation. However, since no building permit application had ever been made for this building, all statements were based on memories of the people involved and there was no written documentation to be found whether some of the claimed dialogue ever occurred.

Chairman Steinfort called for questions of staff. Several Board members asked staff to elaborate more on the claims of what the City might have done. Mr. Yearout acknowledged that Inspection staff remembers being made aware of the beginnings of the construction of the building, but that administrative staff took charge of the follow-ups with Mr. Padilla. Apparently nothing ever was documented as to whether those follow-up conversations occurred and Mr. Padilla could not produce documentation either. No building permit application was ever made for this building, but there were permits on previous buildings. It was an unfortunate situation when anecdotal information indicated there was knowledge of the situation that could have potentially avoided this case; but nothing appears to have ever been done.

Chairman Steinfort noted there were no further questions of staff and opened the hearing for comments from the public.

Mr. Padilla stated he had researched his records extensively because he believed he had paid for a permit and received permission for this building as constructed; however he could find no records. He had even reviewed his bank records, but found nothing. The subsequent survey identified the location problem. He had assumed the existing fence along his west property line

was on the property line. The survey showed that was not the case. He stated even his neighbor to the west said nothing while this building was being constructed. Mr. Padilla apologized for failure to seek the building permit before construction was done; but he wished to keep the building in its present location.

There were no comments made from anyone else in the public. Mr. Yearout reported to the Board that two written comments from neighbors had been received. One was from Mr. Wayne Dishman, 1001 Cedar, who objected to the variance because of the facts identified by staff. The other was from Don Harris, 1212 Highland, who was the neighbor to the west and did not want the variance approved for the reasons stated by staff.

There being no further comments, Chairman Steinfort closed the public hearing and called for comments or a motion from the Board.

Commissioner Moyer moved to deny the variance request of Sisenando Padilla, owner, requesting a variance to decrease the side yard setback along the west property line at 1208 Highland Drive, Junction City, Kansas, because the hardship created was self-imposed. Commissioner Ryan seconded the motion and it carried unanimously.

Item No. 2 - Case No. BZACU-10-01-11 – Public hearing on the application for a Conditional Use Permit to establish a Group Day Care Home at 918 Sunrise Hill Drive, Junction City, Kansas.

Chairman Steinfort call the public hearing to order on the application of Barbara Bartosik and April Horton, owners, requesting a Conditional Use Permit to operate a Group Day Care Home for not more than twelve (12) children at 918 Sunrise Hill Drive, Junction City, Kansas.

Mr. Yearout provided an overview of the staff report and a brief history of the records discovered from City files concerning this property. Mr. Yearout stated the applicant is claiming they have been approved for a Group Day Care Home by the City in the past. He provided a copy of the certificate issued by the City for a Family Day Care at this property in 2004. The documentation from 2004 was signed by the applicants and clearly showed all that was identified at that time was a Family Day Care Home that did not have more than 6 children, which explains why there has never been a zoning consideration on this property in the past. Mr. Yearout stated it was staff's opinion that either the applicant's provided incorrect information in 2004, or are providing incorrect information now. Staff believes this is important in considering this case as the establishment of a Group Day Care Home as something new at this location, rather than the reestablishment of what has been done in the past.

Mr. Yearout noted the staff report outlines why staff is recommending denial of this request. Staff believes the intensity of this use within an established single-family, residential neighborhood would authorize an activity that is incompatible with the character of the neighborhood. The existing level of uses within the neighborhood, as evidenced by the manner in which all the public spaces are used by on-street vehicle parking and other activities in the front yard area, showed a potentially intensive use of this nature could be very disruptive. In addition, the potential impact from additional traffic from the families of up to 12 children could be very disruptive to the neighborhood. Staff is recommending the Conditional Use Permit be denied as outlined in the staff report.

Chairman Steinfort asked if there were questions of staff. Hearing none, he opened the public hearing for comments from the audience.

Barbara Bartosik, the applicant, provided an additional packet of information that included pictures of her property and copies of previous licenses issued by the State. She reiterated that

she was positive the City had approved her previous Group Day Care Home because the Zoning office had approved the activity and the Fire Department had inspected it for that use. She stated she was told by the Health Department those approvals were required before she could open for business.

When questioned by Board members regarding the nature of her operation, Ms. Bartosik stated her and her daughter, April Horton, operate the day care home for up to 6 children from outside her family; however there is usually only 3 or 4 children present. Her 3 grandchildren also reside at this home, so the total maximum number of children would be 9. When asked why she had applied for the Group Day Care Home which allowed up to 12, she stated the cost to make the application was the same and she only wished to have the latitude to maximize the operation.

Ms. Bartosik stressed the previous documents from the State of Kansas that noted she was issued a license in the past for a Day Care Home and a Group Day Care Home. She felt she had always been approved for those categories by not only the State of Kansas, but also the City of Junction City.

Fannie Wilcox, 917 Sunrise Hill Drive, spoke in opposition to this request. She stated she was the neighbor across the street and had a friend that was handicapped that lived with her. She acknowledged her property was intensively used because of the moving of a large amount of personal items and other material from another location and that was being temporarily kept at her property. This has resulted in a lot of vehicles at her property and, on occasion, some of the vehicles have parked on the east side of the street. She stated Ms. Bartosik had called the police and complained about the cars parked on her side of the street and was advised it was a public street and anyone could legally park there. At one point, Ms. Bartosik's family had placed traffic cones in front of their property to try to keep other people from parking at that location.

Ms. Wilcox went on to state she had been awoken by loud music from cars of people that appeared to be dropping off children at Ms. Bartosik's home very early in the morning, sometimes in the neighborhood of 2:00 a.m. She stated she feels the manner in which the day care has been operated in the past shows the reestablishment of this use will not be neighborly.

When asked by the Board, Ms. Wilcox acknowledged there were some materials currently at her property that are in the process of being removed and properly disposed of. Some of that material has been temporarily stored in the driveway but will be gone very soon.

Ms. Bartosik readdressed the Board and said she did not agree with anything that had just been said and believed her information submitted previously proved the manner in which she operated her facility. She stated the Board could check with the Health Department to see her facility had never had a complaint filed against it.

There being no further comments, Chairman Steinfert closed the public hearing and called for questions, comments or a motion from the Board.

Mr. Yearout stated that staff wished to respond to the claims the documentation from the State of Kansas proved she was previously authorized by the City as a Group Day Care Home. He stated the licenses issued by the State of Kansas are for State records only, and the classification by the City was based on the records filed with the City as previously presented. The City records show the previous operation as being a Family Day Care Home or there would have been a requirement for a Conditional Use Permit in 2004.

The Board engaged in a discussion regarding the limits of the number of children from outside the home and whether having only 6 from outside the home constituted a Family Day Care Home. Staff responded it did not because the limit of 6 included counting one's own children if

they were under a certain age. The applicant acknowledged this was the standard and she would be required to have a license for at least 9 children based on her plans to keep up to 6 children along with her own 3 grandchildren.

Mr. Yearout responded to the general question of the latitude of the Board in acting on this application that the Board could reduce the number of permitted children, but could not increase it. Additionally, any other restrictions or limitations can be added by the Board of Zoning Appeals to a Conditional Use Permit on the presumption such conditions are being made to protect the character of the neighborhood and as being in the best interests of the public.

Commissioner Watson stated his only concern was the maintenance of no appearance of a business in a home, which meant he was opposed to any signage on the home and being opposed to the use of the front yard area for playground equipment.

Commissioner Gustafson moved to approve the Conditional Use Permit for Barbara Bartosik and April Horton, 918 Sunrise Hill Drive, Junction City, Kansas, owners, to operate a Day Care Home for not more than nine (9) children, with no more than six (6) children from outside the home at any time; that there be no on-site signage permitted; and that no playground equipment be permitted in the front yard. Commissioner Moyer seconded the motion and it carried unanimously.

Item No. 3 – Case No. BZACU-10-02-11 – Public hearing on the application for a Conditional Use Permit for mini-storage at 1613 South Spring Valley Road, Junction City, Kansas.

Chairman Steinfort noted this application was being continued at the request of staff. Mr. Yearout noted the applicant had been informed of the error in the mapping that was discovered after this hearing had been established regarding the fact the property is actually zoned “CN” Neighborhood Commercial rather than “CG” General Commercial. Mr. Yearout stated the applicant has applied for a rezoning that will be considered at the November meeting.

Commissioner Gustafson moved to continue this case until the November, 2011, meeting. Commissioner Dibben seconded the motion and it carried unanimously.

ADJOURN AS BOARD OF ZONING APPEALS AND RECONVENE AS METROPOLITAN PLANNING COMMISSION

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

Item No. 4 – TA-10-01-11 – Public hearing on proposed update to the Zoning and Subdivision Regulations for Geary County, Kansas.

Chairman Steinfort called the public hearing to order concerning the proposed update to the Geary County Zoning Regulations and Subdivision Regulations and called for staff comments.

Mr. Yearout reviewed the staff report, which provided a brief overview of the general content of the proposed Zoning and Subdivision Regulations. He noted the Zoning Regulations, if adopted, will delete the commercial and industrial zones and that those uses will all be addressed as Conditional Uses, with a public hearing by the Metropolitan Planning Commission and final decision by the Board of County Commissioners. This process will provide greater flexibility in consideration of commercial and industrial development and, staff believes, a greater likelihood of ultimate approvals of some projects because they can be considered on their own basis, rather

than having to be considered in light of the potential of a broader commercial or industrial designation.

Additionally, the Zoning and Subdivision Regulations will provide a more definitive manner in which residential development in the rural areas may occur. The change to the minimum lot size for Agricultural is going to 40 acres and the requirement will be to rezone and plat to Suburban Residential, with lot sizes being between 1 and 3 acres in size and internal roads. Mr. Yearout noted the Public Works office is still finalizing the written road standards and that the Health Department is present to provide the status of the update to the County Sanitation Code.

Mr. Yearout stated the Zoning District Boundary Map had not been completed, primarily because of scheduling conflicts with the GIS department. However, the map will simply show the designation of zoning consistent with how the property is used. That will be true for properties based on size; as well as use. For example, properties used commercially will be granted a Conditional Use Permit upon adoption so the use is in conformance with the Zoning Regulations. Staff will work with the other public officials and the Commission members to identify those properties, if any, that need to be designated differently. Additionally, those that have previously been granted Special Use Permits or Conditional Use Permits will have all the conditions and restrictions continue in effect with the adoption of the new Zoning Regulations.

Chairman Steinfert asked for questions or comments from the Commission. Commissioner Moyer expressed continuing concerns that the statements regarding agricultural activities and being potentially protected under state law did not cover all of the aspects of what occur. In particular, he wanted clarification regarding smoke from burning and the fact that some operations can occur 24 hours a day. Mr. Yearout noted that could easily be added to the relevant language in Article 1 if the MPC wished.

Other Commissioners had questions concerning kennels and inoperable vehicles, especially with respect to how those activities might be viewed on agricultural operations. Mr. Yearout clarified that kennels, by definition, can apply in a rural area and his experience has shown that the standard in the proposed Zoning Regulations has worked more often than not. Additionally, the inoperable vehicle definition deals with determinations regarding salvage or junk yards and do not apply to farm equipment.

Chairman Steinfert opened the public hearing for comments from the audience.

John Kramer, rural Junction City, spoke briefly to the Commission. He stated he felt the County should have done this many years ago, but he was glad the County is updating its regulations. He had no opposition to anything specifically, but questioned whether the references to the runways in the Airport Overlay District were correct. He believed there were some incorrect references that should be fixed. Mr. Yearout said he would verify the references in that Article and make any changes that need to be made. Those would be considered as clerical errors and would not be fatal to the document as a whole.

Kate Watson, rural Geary County, stated she was glad the County was updating the regulations and simply wanted to confirm that existing operations that had been previously approved as Conditional Uses or Special Uses would have the same conditions remain in effect. Mr. Yearout stated they would. She responded that if Mr. Kramer didn't have any other issues, then she didn't either.

Lisa Davies, Geary County Sanitarian, spoke briefly concerning the update to the Geary County Sanitation Code. She stated that once the MPC acted on the updated regulations, she would forward the Sanitation Code to the County Commission for its blessing to permit them to be forwarded to KDHE. Under Kansas statutes, KDHE must approve the Sanitation Code as being in

compliance with State laws prior to final adoption by the County Commission. In response to a question concerning the design standards intended under the new Zoning and Subdivision Regulations for the smaller lots, she stated the current code provided the latitude to address the requirement for the enhanced, on-site systems for the smaller lots until the new Sanitation Code was formally adopted. She stated she didn't believe there would be much of a time gap anyway. Ms. Davies asked for a written confirmation that the MPC was in favor of the Sanitation Code. The Commission granted that confirmation and the members signed the document she provided.

There being no further discussion, Chairman Steinfert closed the public hearing and called for additional questions, comments or a motion.

Commissioner Ryan moved to recommend the Board of County Commissioners of Geary County adopt the updated Zoning Regulations and Subdivision Regulations as presented with the changes regarding agricultural operations identified by Commissioner Moyer and edits needed based on the comments from Mr. Kramer. Commissioner Moyer seconded the motion and it carried unanimously.

Mr. Yearout stated the recommendation would go forward to the Board of County Commissioners as soon as the Zoning District Boundary Map can be finalized. The changes noted will also be forwarded to the MPC.

7. GENERAL DISCUSSION - None

8. ADJOURNMENT

There being no further business, Commissioner Moyer moved the meeting be adjourned. Commissioner Mortensen seconded the motion and it carried unanimously. Chairman Steinfert declared the meeting adjourned at 10:03 p.m.

PASSED AND APPROVED this _____ day of November, 2011

Mike Steinfert, Chairman

ATTEST:

David L. Yearout, Secretary