

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

MINUTES

**January 19, 2012
7:00 P.M.**

**Members
(Present)**

Brandon Dibben
Maureen Gustafson
Ken Mortensen
John Moyer
Mike Ryan

**Members
(Absent)**

Mike Steinfort
Mike Watson

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 Watson absent.

2. APPROVAL OF MINUTES

Commissioner Mortensen moved to approve the minutes of the December 8, 2011, meeting as written. Commissioner Dibben seconded the motion and it passed unanimously.

3. OLD BUSINESS - None

Item No. 1 – Case No. Z-08-01-11 – Public hearing to rezone a portion of the property at 11606 South Highway K-57, Junction City, Kansas.

Vice-Chair Gustafson called the hearing to order on the application of Chad Ziegler, owner, requesting to rezone from “A” Agricultural District to “CG” General Commercial District, a portion of the property at 11606 South Highway K-57, Junction City, Geary County, Kansas.

Mr. Yearout noted this case was being continued from November, 2011, which is the last time the case was discussed. The intent at that time was to publish for consideration of a Conditional Use Permit for the January meeting. However, since the new County Zoning Regulations were not adopted until January 7, 2012, staff is recommending the Metropolitan Planning Commission take formal action to dismiss the original application for the rezoning and authorize the reconsideration of the request as a Conditional Use Permit under the new Zoning Regulations. Because of the later date for this meeting, the public hearing can not be held until the March meeting.

Commissioner Mortensen moved to dismiss Case No. Z-08-11, the application of Chad Ziegler, owner, requesting to rezone from “A” Agricultural District to “CG” General Commercial

District, a portion of the property at 11606 South Highway K-57, Junction City, and authorize setting a public hearing for the March, 2012, meeting as a Conditional Use. Commissioner Moyer seconded the motion and it passed unanimously.

Item No. 2 – Case No. SUP-11-01-11 - Public hearing for a Special Use Permit to install a parking lot at J-Hill Road and Smokey Lane, Geary County, Kansas.

Vice-Chair Gustafson called the hearing to order on the above case and called for comments from staff.

Mr. Yearout stated the applicant had originally requested this matter be continued to February, 2012. No new information has been received; however staff has heard there are discussions on-going concerning the extent to which improvements would need to be made and how much that would cost. The City of Grandview Plaza has also been involved in some discussions, but there has been no indication any agreements have been reached. Staff is recommending the case be continued until the February, 2012, meeting, but that a decision between the parties will be needed by that time. Staff stated a letter would be written to both parties indicating a decision will be required at the February meeting or the matter will be forwarded with a recommendation of denial.

Commissioner Moyer moved that Case No. SUP-11-01-11, the application of Carl Corey, agent for Harold Glessner, owner, requesting a Special Use Permit on property zoned “A” Agricultural to install a parking lot near the southwest corner of the intersection of Smokey Lane and J-Hill Road, Junction City, Kansas, be continued to the February meeting. Commissioner Ryan seconded the motion and it carried unanimously.

4. NEW BUSINESS

Item No. 1 – Case No. Z-01-01-12 – Public hearing to rezone property bounded on the North by Chestnut Street, on the South by Spruce Street, on the East by Franklin Street and on the West by Washington Street.

Vice-Chair Gustafson called the public hearing to order on the application of Kaw Valley Engineering, agent, on behalf of Crown Investment Company, owner, to rezone from “CSR” Service Commercial Restricted District, “MH” Mobile Home Park District, and “CCS” Central Commercial Special District to “CG” General Commercial District, the two blocks located at the south of Chestnut Street between Washington Street and Franklin Street.

Mr. Yearout reviewed the staff report indicating this property has been a mixture of commercial, residential and mobile homes uses over the years. That is why the existing zoning pattern is the way it is. The bulk of the property has been vacant for the past several years, with the remaining structures along Chestnut Street being razed in 2011. As of the time of this application all of the property within the two blocks is vacant and under single ownership. The intent of this rezoning is to place the entire property into a single zoning classification that provides enough flexibility to encourage the redevelopment of the land.

Mr. Yearout stated that a replat of these two blocks will be considered later in this meeting. That replat will place all the property into a single lot and also proposes to vacate Walnut Street between Washington Street and Franklin Street.

Mr. Yearout noted staff is recommending approval of this rezoning because it places the property in one commercial classification; staff believes it complies with the spirit and intent of the Zoning Regulations, and is in the best interest of the community.

Vice-Chair Gustafson opened the hearing for public comment.

Leon Osbourn, Kaw Valley Engineering, representing the property owner, stated the property is now owned by Kansas State Bank. In discussing the conditions on the property with staff it was felt the rezoning and replatting would be the best method to resolve all the other challenges on the property. He stated he concurred with staff comments and would be glad to answer any questions.

There being no further questions or appearances, Vice-Chair Gustafson closed the public hearing and called for a motion.

Mr. Yearout stated that Gary Junghans had sent an e-mail asking what the case was about. Mr. Yearout indicated he sent a reply to Mr. Junghans explaining the substance of the request and received a "thank you" with no additional questions or comments.

Commissioner Ryan moved that Case No. Z-01-01-12, the request of Kaw Valley Engineering, agent, on behalf of Crown Investment Company, owner, to rezone from "CSR" Service Commercial Restricted District, "MH" Mobile Home Park District, and "CCS" Central Commercial Special District to "CG" General Commercial District, the property located between Chestnut Street on the north and Spruce Street on the south, and between Washington Street on the west and Franklin Street on the east, all 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 Dibben seconded the motion and it carried unanimously.

Mr. Yearout stated that this case is scheduled for consideration by the City Commission at the regularly scheduled February 21st meeting, which is the first meeting following the completion of the protest period.

Item No. 2 – Case No. Z-01-02-12 – Public hearing to rezone residential properties located on the south side of West 7th Street between Adams Street and Garfield Street.

Vice-Chair Gustafson called the public hearing to order on the application initiated by the City Commission of Junction City, Kansas, to rezone from "CSP" Special Commercial District to "RM" Multiple Family Residential District, the properties used residentially on the south side of West 7th Street between Adams Street and Garfield Street, Junction City, Kansas.

Mr. Yearout reviewed the staff report and noted the intent of this action is to place the non-commercial properties on the south side of 7th Street into a zoning category that permits the existing uses; thereby removing the "grandfathered" condition from the properties. Changes in lending laws in the past few years have made financing for single-family homes that are in commercial zones virtually impossible. The reason is because, in the event the residential structure is destroyed beyond 50% of its value, the City has no authority to issue a building permit to restore or rebuild the home. The City has processed at least three rezonings in the past year to rectify this situation so a home sale could be completed. This rezoning is intended to remove this same potential hurdle for the single-family homes along 7th Street.

Mr. Yearout stated that this rezoning will have no effect on the property taxes and there are no plans by the City to raze single-family homes and build apartments. The proposed

rezoning to "RM" (Multiple Family) matches the "RM" zoning on the north side of 7th Street. The City is not forcing this change on anyone. If a property owner wishes to retain the designated commercial zone, they may do so but we will need to identify that parcel. To date, no-one has made such a request. For these reasons and those stated in the staff report, staff is recommending approval of this case to the City Commission.

In response to a question from Commissioner Mortensen, Mr. Yearout stated the residential properties will be zoned "RM" Multiple Family Residential, the same as on the North side of 7th Street; and the "RM" designation does permit churches.

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

Scott Dye, 305 West 7th, stated when he applied for a loan for this property he is buying he was denied because of the commercial zoning on the property. The current owners of the property have moved to Alabama with the understanding there would be no problem with the financing. However, the current zoning of this property has brought the processing of the loan to a halt. Until the property is rezoned to residential, the lending institution will not approve the loan application.

Vice-Chair Gustafson asked if there was anyone else present wishing to be heard. There were no additional questions or comments. Vice-Chair Gustafson closed the public hearing.

Commissioner Mortensen questioned whether consideration should be given on a parcel-by-parcel or block-by-block basis. Mr. Yearout indicated this could be addressed in a single motion.

Commissioner Dibben asked when this area was given the commercial zoning; and if the current property owners were asked what they wanted. Mr. Yearout stated he was unsure when this area was designated for commercial development but the 1975 zoning map shows all this area as commercial.

Commissioner Moyer moved that Case No. Z-01-02-12, concerning the request initiated by the City Commission to consider the rezoning of the residentially used properties on the south side of 7th Street from Adams Street to Garfield Street be rezoned from "CSP" Special Commercial District to "RM" Multiple Family Residential District 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 Ryan seconded the motion and it passed unanimously.

Mr. Yearout stated this case would be presented to the City Commission at their regularly scheduled February 21st meeting.

Item No. 3 – Case No. FP-01-01-12 – Final Plat for Quarry Oaks Addition Unit No. 1 to the City of Junction City, Kansas.

Vice-Chair Gustafson called the hearing to order on the request of Kaw Valley Engineering, agent, on behalf of RMD Investments, LLC, owner, requesting final plat approval for Quarry Oaks Addition Unit No. 1, being located on the east side of Spring Valley Road and north of Indian Ridge 6 Addition.

Mr. Yearout gave a brief overview of the staff report, stating that this final plat is in conformance with the approved preliminary plat and no alterations or changes were made. The

developer proposes to privately pay for the extension of the public streets and utilities. In accordance with the Subdivision Regulations, a development agreement will be prepared. The final plat will not be presented to the City Commission until the agreement has been approved by the City Attorney and other City officials. Staff is recommending approval of the Quarry Oaks Addition Unit No. 1, subject to execution of the development agreement.

Leon Osbourn, Kaw Valley Engineering, representing the developer, stated he had no other comments to add to the staff report and was present to answer any questions the Commission might have.

There was some general discussion between the Commissioners, staff and Mr. Osbourn regarding the facing of the home on Lots 1 and 8; why Lots 12 and 13 show two utility easements; and why there was only a 25-foot easement along Spring Valley Road. Mr. Osbourn explained all the reasons behind why those items are shown on the plat that way; which primarily is to comply with the Subdivision Regulations or requirements of the City for utility purposes.

There were no other appearances or public comment.

Commissioner Mortensen moved that Case No. FP-01-01-12, the application of Kaw Valley Engineering, agent, on behalf of RMD Investments, LLC, owner, requesting final plat approval of Quarry Oaks Addition, Unit No. 1, located on the east side of Spring Valley Road and north of Ponca Drive, be approved and the Chairman and Secretary be authorized to sign the plat; and the plat be forwarded to the City Commission of Junction City for final approval and acceptance upon completion of the development agreement addressing the public improvements within the plat. Commissioner Moyer seconded the motion and it passed unanimously.

Mr. Yearout stated that this case would be presented to the City Commission once the developer's agreement is accepted by the City Attorney and other interested City officials.

Item No. 4 – Case No. FP-01-02-12 – Chestington Addition, a Replat of Blocks 4 & 5 Schnell's Addition, to the City of Junction City, Kansas.

Vice-Chair Gustafson called the public hearing to order on the request of Kaw Valley Engineering, agent, on behalf of Crown Investment Company, owner, requesting final plat approval for the Chestington Addition, a replat of Blocks 4 & 5 Schnell's Addition, bounded on the North by Chestnut Street, on the South by Spruce Street, on the East by Franklin Street and on the West by Washington Street.

Mr. Yearout stated this is the same area considered in rezoning Case No. Z-01-01-12. The intent of this replat is to create a single lot and to vacate Walnut Street between Washington and Franklin Streets. The alleys will be vacated but retained as utility easements because the sanitary sewer mains of the City are in these alleys. Discussion with other utility representatives indicated there are no other utilities in the alleys and the only utilities in the Walnut Street right-of-way are some older electric lines that will be removed. Mr. Yearout stated another concern was the impact vacation of Walnut Street would have on storm drainage for the area. Engineering analysis shows that by connecting the curb line across Walnut Street on the east side of Washington Street, storm water will flow to the north or south since this is a "high point" at this location.

Another concern is that staff believes it is in the best interest of the City to require access control at the intersection of Washington Street and Chestnut Street. Staff is recommending a minimum of 100 feet of access control at that intersection.

Mr. Yearout stated staff believes this replat is in the best interest of the community and that adequate safeguards are in place to provide protections to the surrounding properties from any use that may come forward. This replat, along with the rezoning of the property, should enhance the redevelopment potential of the site. A separate development agreement will be prepared that will address all the necessary issues associated with the replat until redevelopment occurs.

Mr. Yearout stated staff recommends this request be recommended for approval, subject to the final plat document showing the access controls identified along Washington Street and Chestnut Street, and the completion of the development agreement addressing the issues identified by staff and at this meeting.

Leon Osbourn, Kaw Valley Engineering, representing the property owner, indicated this replat will make this property more marketable for commercial development. Any costs associated with relocation of the existing Walnut Street storm sewer or the "alley" easements will be absorbed by the developer. As pointed out by staff, a developer's agreement can be drafted to safeguard the City against incurring an undue financial burden.

General discussion ensued between the Commissioners, staff and Leon Osbourn regarding when Walnut Street would be closed and safety issues involved, KDOT requirements regarding curb-cuts along Washington Street, distance from the Washington/Chestnut intersection for ingress/egress curb-cuts, storm water drainage, and contents of a developer's agreement. Answers were provided regarding all subjects to the satisfaction of the Commission.

There being no further questions or comments from staff or the public, Vice-Chair Gustafson called for a motion.

Commissioner Mortensen moved that Case No. FP-01-02-12, concerning the request of Kaw Valley Engineering, agent, on behalf of Crown Investment Company, owner, to replat the two blocks located south of Chestnut Street and east of Washington Street, Junction City, Kansas, be recommended for approval, subject to the final plat document showing the access controls identified by staff, and the completion of the development agreement addressing the issues identified by staff and at this meeting. Commissioner Moyer seconded the motion and it passed unanimously.

Mr. Yearout stated that this case would be presented to the City Commission once the final plat is received and the developer's agreement is accepted by the City Attorney and other interested City officials.

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

Vice-Chair Gustafson declared the Metropolitan Planning Commission as being in recess and convene as the Board of Zoning Appeals.

- 5. OLD BUSINESS - None**
- 6. NEW BUSINESS**

Item No. 1 – Case No. BZACU-01-01-12 – Public hearing for a Conditional Use Permit to convert a portion of a commercial building to apartments in the “CC” Central Commercial District.

Vice-Chair Gustafson called the public hearing to order on the application of Russell Schmidt, owner, requesting a Conditional Use Permit, to convert a portion of a commercial building to apartments in a building in the “CC” Central Commercial District, located at 813 North Jefferson, Junction City, Kansas.

Mr. Yearout gave a brief overview of the detailed information set out in the staff report regarding the property history and the Zoning Regulation guidelines for the Board to approve a conditional use permit. Mr. Yearout noted ownership and uses have changed several times over the intervening years and the building has been vacant for several years. The applicant, Mr. Schmidt, believes converting a portion of the building for residential use will allow the building to be used, since there is a high demand for residential properties. The applicant has been working with the Code Enforcement Department regarding building code requirements to have a residential use and a commercial use share the same building.

Mr. Yearout stated a letter was received from Janice Howard, owner/operator of Vacuum Center - Service Master at 817 North Jefferson, listing concerns about parking, noise and construction of a firewall between the proposed apartments and their building. No other correspondence or concerns were received.

Mr. Yearout stated that staff is recommending approval of this application because it meets the spirit and intent of the Zoning Regulations and the building has remained unused for commercial purposes.

There being no immediate questions of staff, Vice-Chair opened the hearing for public comment.

Mr. Russell Schmidt, applicant, indicated he had visited with the owners of the vacuum business and they do not have any problems. They have agreed to allow vehicle parking in their business parking lot. Mr. Schmidt stated that construction of the apartments is meeting all code requirements for a building with mixed uses. This does involve installation of a 2-hour firewall.

In response to questions from Commissioners, Mr. Schmidt stated just the front portion of the building will be the apartments; the back will remain as a warehouse. They are to be two-bedroom apartments each approximately 700 square feet in size.

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

There was some general discussion between the Commissioners and staff regarding the parking, possibility of additional units in the future, and clarification that a Conditional Use goes with the property.

Commissioner Mortensen moved that Case No BZACU-01-01-12, the application of Russell Schmidt, owner, requesting a Conditional Use Permit to convert a portion of a commercial building to apartments in the “CC” Central Commercial District, located at 813 North Jefferson, Junction City, Kansas, be approved subject to compliance with the requirements of the Building Code. Commissioner Ryan seconded the motion and it passed unanimously.

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

Vice-Chair Gustafson declared the Board of Zoning Appeals meeting adjourned and reconvened the Metropolitan Planning Commission.

7. GENERAL DISCUSSION

Mr. Yearout informed the Commission about a complaint received regarding the parking of a large motor home in a driveway. Technically, the Zoning Regulations have prohibited the storage/parking of such vehicles in any required front yard. There are guidelines that would allow them; provided, they are no more than one ton, on a concrete pad and meet any applicable side/rear yard setbacks. This should have been enforced since 1986. It appears no enforcement has been done. Discussion is occurring by staff regarding whether to start enforcement or amend the regulations.

Commissioner Ryan stated he remembers what happened when an ordinance was adopted relative to keeping trees trimmed on private property and the City ended up spending tons of money to have public right-of-way trees trimmed to meet the ordinance requirements. He advised to think through the full impact of any requirements within the regulations.

8. ADJOURNMENT

There being no further business, Commissioner Mortensen moved the meeting be adjourned. Commissioner Ryan seconded the motion and it carried unanimously. Vice-Chair Gustafson declared the meeting adjourned at 8:15 p.m.

PASSED AND APPROVED this _____ day of March, 2012.

Mike Steinfort, Chairman

ATTEST:

David L. Yearout, Secretary