

JOHNSON COUNTY PLANNING COMMISSION

Johnson County Administration Building
111 South Cherry Street
Olathe, Kansas

MINUTES

Tuesday

February 22, 2005

5:45 P.M.

Carol Whitlock, chair, called the regular meeting of the Johnson County Planning Commission to order at 5:55 p.m. on Tuesday, February 22, 2005. The following members were present and participating: Roxanne Morse, William Klassen, Roger Mason, Katy Hoffman, Floyd Danner, Joel Riggs, and Chris Iliff. Kenneth Sanderson, Glenn Bonar, Bonnie Givens, and Clint Robinson were absent. A quorum was present.

GUESTS:

Darrel Dougan, 4370 W. 215th, Bucyrus, Kansas 66085

STAFF PRESENT:

Dean Palos, director of planning
David Peel, principal planner
Joyce Jackson, secretary to the Planning Commission

APPROVAL OF AGENDA:

The agenda was accepted as presented.

APPROVAL OF MINUTES:

The January 25, 2005, Meeting Minutes were approved with correction to page 14, changing Commissioner Klassen to Commissioner Robinson who voted against the motion to change the building height regulations.

BUSINESS BEFORE THE BOARD:

Mr. Palos introduced Commissioner Klassen and awarded him a certificate of appreciation for his 20 years of service to Johnson County as a planning commissioner and zoning board member. The certificate read: "An expression of gratitude for your 20 years of extraordinary services, leadership, dedication, and contributions to the Northwest Consolidated Zoning Board." Mr. Palos said Mr. Klassen has also been on the Planning Commission board since prior to 1988. Mr. Palos introduced Mrs. Klassen. Congratulations to Commissioner Klassen.

BUILDING HEIGHT REGULATIONS

Mr. Palos said the building height regulations are back before the Planning Commission this evening because at the meeting last month A. J. Lang and Tom Price spoke in opposition of the proposed change to a 40-foot maximum building height for residential properties. Mr. Palos presented a draft proposal, dated February 16, 2005, with the revisions from the last meeting. He said at the last meeting a letter was provided from Mr. Mark Billquist of Fire District #3. Mr. Palos said he spoke to Mr. Billquist after the planning commission meeting and Mr. Billquist indicated he would like a copy of the transcript as well as to hear the tapes from the meeting. Mr. Billquist was also concerned that the Fire Districts had not been given adequate notice. Mr. Palos told him that staff had previously talked to representatives of all the fire districts and understood that a 40-foot height was not a major concern. Mr. Palos asked Mr. Billquist to meet with the other fire district representatives and together listen to the tape and decide what their collective position is on the proposed height change. After hearing the tapes representatives of each of the fire districts met with Jerry Mallory, building code official, and Mr. Palos. At that meeting the representatives were given a draft copy of the planning commission minutes. Mr. Palos said the result of the meeting was that the Fire Districts' concerns were not primarily with height. Although height is a concern, the representatives indicated the problems of water supply and response times were more pressing issues.

He said they made it clear that the problem for the fire districts is primarily not getting early enough notification to adequately respond in time. He said it is not just water pressure. He said in the cities the firefighters try to respond in 4-5 minutes and in the rural fire districts the response time may be 11 minutes or more.

Relative to the representative's concerns, Mr. Palos told them that he had already placed the issue of building heights back on the planning commission's February 22nd agenda for further discussion and he invited the representatives to attend and present their concerns.

Mr. Palos said he received a call yesterday from Mr. Billquist and they did not want to pursue the matter any farther.

Mr. Palos said the fire districts representatives agreed to work with our building official to have third-party fire emergency notifications systems installed in areas in the more remote rural areas of the county and where there may be water supply problems.

Mr. Palos said his plan is to go forward to the Board of County Commission (BOCC) with the recommendation of the Planning Commission for approval.

Mrs. Morse said the public should be made aware that the roads, the water pressure, and the fire protection are not going to be the same when they move to the unincorporated area as in the cities. She said she thought there would be a lot of opposition if everyone in the county has to have a tax increase to help fund additional firemen and fire equipment for rural fire districts.

Mr. Palos said our building official has the authority to require notification and he has been doing that. Mr. Palos said we are aware that water pressure is an issue throughout the unincorporated area.

Mr. Palos said the Planning Commission approved the height regulations last month and a copy of the revised regulations has been distributed to all the members. Mr. Palos said the changes were highlighted based upon the recommendations from the Planning Commission at its meeting last month.

Chair Whitlock asked Mr. Palos is there was a need for a motion again tonight.

Mr. Palos said no.

OTHER BUSINESS

Mr. Palos said in the packet mailed out to everyone that the Mid-America Regional Council (MARC) is having training sessions for Planning Commissioners and Zoning Board Members in March, April and May. He said the county will pay the tuition for those members who would like to attend. He recommended the May 19 meeting as a good session for members to attend.

PUBLIC HEARING – CHANGES TO ARTICLE 13, PLANNED RETAIL BUSINESS DISTRICTS AND RELATED CHANGES

Mr. Palos said everyone was sent a draft of Article 13 that is based on Mr. Peel and his understanding of what was discussed at the last Planning Commission meeting. He said at that meeting we agreed to go ahead and hold a public hearing with the understanding that we may want to continue it to discuss this further.

Mr. Palos said he has scheduled April 7 as a special work session with the Board of County Commission (BOCC) to discuss Article 13. He said he is optimistic.

Mr. Palos said he has underlined on the draft the new text that has been added and he deleted the old text most notably on page one. He said staff made it clear that no parcels greater than two acres would be authorized for PRB-1A. He said the most important information is on page two. He said he understood that for antique shop, arts and crafts shop, we would add a stipulation that they be no larger than 900 square feet. He said for assembly halls we would reduce that from 3,000 to 2,500 square feet. He said we would eliminate Bait and Tackle Shop, and Minor Lawn Care. He said on page two, leave in florists, news stands, and artist studios, but limit them to 900 square feet.

Mr. Palos said on page three we added under item D, 5, the maximum lot areas is two (2) acres.

Mr. Palos said there are changes to other articles that we have referenced in the draft.

Mr. Iliff asked what is the reason or thinking for the limitation to this new zoning area, lots, or tracts that are no greater than two acres.

Mr. Palos said these are intended to allow limited commercial uses in generally residential areas. He said we do not want allowed retail to overpower residential areas. He said our sanitary code requires a minimum of two acres for a septic tank. He said this district is intended primarily for areas that are already developed but the district might be approve in new developing areas.

Chair Whitlock said the change is meant to be integrated into residential areas and it was not intended to allow a huge commercial area with a lot of small shops in the middle of it.

Mr. Danner said what this does is leave the two to four acres open relative to the requirements in the PRB-1 District. He said the next business district begins with a minimum of four to eight acre sites on page five.

Mr. Peel said on page five it says under section 3, A, "generally" four to eight acre sites. He said there could be exceptions.

Mr. Riggs said the ratio of 1.0 space per 250 square feet for a 900 square-foot building would be four parking spaces. He said that is a handicap space plus three.

Mr. Palos said the intent was that we might also consider on-street parking. He said that is not stated specifically, but that is the intent.

Mr. Riggs said the requirement that access shall be at least 600 feet from the centerline of any intersecting Parkway or Arterial Street may be difficult. He said if you are looking at existing sites as the focal point you might want to think about access a little more.

Mr. Palos said his intent is still to come back with a proposal for a conditional use permit (CUP) that would also address some of these issues as well as some of the other issues: for example, accessory structures being used as residences might require conditional use permits. He said he views this as addressing one issue now that the BOCC has requested us to address with the intention of possibly bringing back a CUP as well.

Mr. Dougan, 4370 W. 215, Bucyrus, Ks, said he would like to thank all the planners and the department for all their work and he understands that this is going to address many other people's needs. He said the draft copy addresses his interest and the Planning Department has been very receptive in listening to his needs and working through this process. He said there are a number of areas in the unincorporated area that this will help.

Chair Whitlock closed the public hearing.

Chair Whitlock said she is concerned with the blanket parking requirement 1.0 space per 250 square feet when we have such a wide range of usages going from assembly hall all the way down to teaching instruction and studio. These are places that would have maybe have two or

three people in them and all the way up to places that might have 30 to 40 people in them at a time. She said she has a concern if the parking requirement is based on space only.

Mr. Palos said the regulations for other zoning districts we have use the same approach we refer to here. He said in this case we would set at least a minimum parking requirement of 1.0 space per 250 square feet of gross floor area (GFA), this is standard retail. He said there could be a higher requirement for other uses such as offices.

Chair Whitlock said we should state this is a minimum parking requirement and look to the regulations for standards for each type of operation.

Mr. Palos said where applications do not comply or can not comply we revisit with the applicant in two years, and, then, if we see a need, the applicant will have to provide "X" number of additional parking spaces. He said an example is a large warehouse operation with six employees. He said there is some flexibility with the Zoning Boards. He said the intent is to maximize that flexibility.

Chair Whitlock said her concern was, "one suit fits everybody". Her concern was the assembly hall with more than two people per square feet. She said more stringent requirements may apply based on usage as defined in the regulations.

Mrs. Morse said we should be strict in some areas for off-street parking, thereby respecting the neighbors.

Mr. Palos said in the regulations, page 13-5, it says off-street parking requirements for specific uses are contained in Article 19 of the regulations. Mr. Palos quoted parking space requirements per basic measuring unit from Article 19, page 19-1 and 19-2.

Chair Whitlock asked Mr. Palos to make sure this draft does not conflict with the zoning regulations.

Mr. Peel suggested striking the whole sentence that starts with "However" in G, page 6 of the draft.

Mr. Riggs asked about lighting requirements next to a residential area.

Mr. Peel said we do have a standard stipulation on development plans that deals with intensity and glare. It primarily calls for a maximum height and wattage for exterior pole lights. It also has a stipulation that says the illumination source shall not be visible off site.

Mr. Peel said staff would bring a resolution with attachments to the Planning Commission at the March meeting.

Mr. Palos said he would ask to continue the public hearing until next month.

Mr. Iliff made a motion to continue the public hearing until next month's meeting.

Mrs. Morse seconded the motion.

Chair Whitlock said it is moved and seconded to continue the public hearing on Article 13, Planned Retail Business Districts to next month's Planning Commission meeting. The motion carried 8-0-0.

UPDATES/OTHER BUSINESS

New Century AirCenter Compatibility Plan

Mr. Peel said he has received GIS coverage of the City of Gardner Land Use Plan and other information needed to prepare maps showing what their plan calls for. He said he received two transmittals. He said there have been meetings with staff and property owners who are pushing for approval of the proposals that are before the City of Olathe right now. He said there is a proposal for 40 acres southwest of 143rd and Cedar Niles Road to be rezoned for up to three houses per acre. He said it is an area that is entirely in the flight corridor as defined in the New Century Plan that was adopted in 1994. He said that rezoning has been considered by the city planning commission twice, both times the city planning commission recommended denial. He said the first time the city council received that recommendation they sent it back to the planning commission which considered it last week and again recommended denial. He said it will go before the city council next Tuesday evening and one of the property owner's agent indicated that if they do not get approval from the city council, they will probably ask for de-annexation and come to the county for zoning approval for the same type of development density. He said they are arguing that the county has approved other developments north of New Century AirCenter with similar densities in some cases north of the proposed runway that may or may not be built. He said they are arguing that they should be afforded the same opportunity to come before the BOCC and seek that same type of zoning. He said staff told them that it is contrary to the plan, right now the plan is one house per ten acres, and they want three houses or more per acre. He said they do not have in their plat layout the emergency landing areas that were recently adopted for the Executive Airport.

Mr. Peel said there is pressure for staff and the Planning Commission to accelerate the study of the New Century AirCenter Plan and try to come up with something that provides them a window of opportunity to get their "day in court" or day before the boards with a zoning request, especially if they seek and win de-annexation and come before the county with a zoning change request. He said as staff told you at a previous meeting, we have a timing issue with respect to the Master Plan that the Airport Commission is preparing for both airports. He said the New Century AirCenter Compatibility Plan needs to wait until that Master Plan process is well underway towards its conclusion to identify things like whether the new runway would be built, whether the existing runway might be extended 1,200 feet further north, and whether other changes will occur to New Century's future plan for development and operation of it as an airport. He said once that is defined, and then we can deal with the compatibility planning issues as to what should happen around that type of an airport and in this setting. He said we are getting pressured for this property to ignore the fact that we do not have the Master Plan currently defined as to what is the airport that we are trying to identify compatibilities

around? He said it is a project that we were anticipating taking some time and it may be late this year by the time we have wound our way through all the studies with the planning commission, received comments, and made recommendations to the BOCC.

Spring Hill Annexation

Mr. Palos said the City of Spring Hill and the Spring Hill School District have come to an agreement on an annexation. He said it was an issue that was very contentious and that from day one we have encouraged the City of Spring Hill and the school district to come to an agreement on annexation. He said the school district needs to have city sewers and the school district has purchased a piece of property in the unincorporated area that is on the northeast corner of Ridgeview and 199th Street. He said the purchased property is a little over a mile from the city boundaries, but the school district and the city had not in concert in working together. Mr. Palos said we did not want to process this CUP, we are not sure we are even in favor of it given its location and the issues related to the Rural Comprehensive Plan, so it is a relief to us that they have resolved this issue. He said the City of Spring Hill has agreed to go ahead and annex the site and the city is giving the school district breaks on excise tax and building permits. He said it is a good deal for everybody.

Coffee Creek Plan

Mr. Palos said the City of Overland Park has agreed to go ahead and annex 488 acres included in the Coffee Creek Plan. He said there was originally a proposal for a road, Coffee Creek Parkway, which was to curve and connect Ridgeview to Pflumm. He said it was the main east – west road through the area for about a five square mile area. He said the funding for that road was supposed to occur as a special benefit district that everybody within the city would pay upfront and they would go head and make the improvements on the road. He said the road was a key to this development. He said what happened was all of that broke down with the city, and they are no longer going to build the parkway nor are they going to build it in the alignment that they had proposed to build it in. He said the city has gone back to doing a straight section line road, 167th Street, which is what the parkway was going to replace. He said that has become a problem for the elementary school that was just approved for the Spring Hill School district. He said it is a problem and the school district is between a “rock and hard place” and other people who were planning to make improvements have had to change their plans as well. He said this new road was supposed to line up with our park entrance and now it is not so it is just one problem after another.

Mr. Mason said the City of Olathe is having difficulty getting their arms around the whole project.

Mr. Palos said it comes back to us because there is a large area that is in the unincorporated area. He said the plan was for the city to adopt its plan and then come to the county for us to essentially ratify their plans and adopt it as an amendment it to our plan.

Mr. Mason said portions have already been annexed into the City of Olathe.

Mr. Palos said yes at least a square mile area.

Mr. Palos said the soccer people are trying to de-annex the site that is in the City of Overland Park at the southwest corner of 175th and Pflumm Road.

Other updates

Mr. Palos said there will be newspaper articles about discussions going on between Johnson County, Cass County, and the Mid-America Regional Council (MARC) for a study of the southeast corridor that was included in the CARNP Plan. He said that plan was approved in 1999 and we officially adopted it in the updated Rural Comprehensive Plan. He said he was not sure what involvement the Planning Commission would have in the study. He said there were three areas, two areas out west that need to be studied, and one area between 175th and 199th east of Mission Road to the county line that we were never able to come up with a final plan as to where the alignment would be for a road to connect to U.S. 71. He said Cass County is going to improve the road from U.S. 71 to 158th (Holmes Road), that puts it within a mile to two miles of Johnson County coming in around 183rd Street. He said MARC has agreed to spearhead the study. He said MODOT has not committed any money but he thought KDOT may commit some money to it; Johnson County and Cass County are planning to put money into it. He said the plan is to set up an elaborate structure like the CARNP process so as to have plenty of public input. Mr. Palos said he has been attending meetings and notifying communities that this is coming. He said the Planning Commission will certainly be aware of any public meetings. He said although the Planning Commission did not initially approve CARNP, members had input. The actual adoption of CARNP was done by the BOCC with a recommendation that it be adopted as part of the Rural Comprehensive Plan.

Mr. Iliff said he would like to volunteer to serve on any advisory committees because this goes through Aubry Township and would significantly affect planning in that area.

Mr. Palos said the thought is to connect Alternate 69 Highway and the original discussions were it would connect somewhere on 183rd Street and drop south to 199th Street. He said that was six years ago and he is assuming this will not be a simple process. This will take at least 18 months or more once the consultant is on board.

Eminent Domain

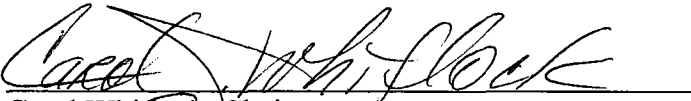
Mr. Iliff said today the U. S. Supreme Court heard arguments in the eminent domain case out of New London, Connecticut, and depending on the Supreme Court decision it will potential affect the planning in communities all around the country and certainly in Johnson County where that particular technique has been used on a number of occasions. He said it has been applied in the unincorporated area in his experience. He said depending on how that case is decided he is giving notice that he wants this issue brought before the planning commission. He said he brought this forward about a year ago and it was shot down because the BOCC had taken a position with regard to Kansas Legislature on this but he said he thought is should be revisited. He said it is a very political issue and he thinks the planning commission should discuss as to whether or not we think that is a technique that ought to be used in our county.

Mr. Iliff said there should be discussions that include local experts that maybe could address the issue from both perspectives.

Chair Whitlock agreed with Mr. Iliff that there should be future discussions on this topic. She said her understanding it will be mid-summer when it is actually decided.

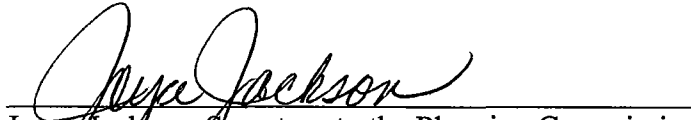
ADJOURNMENT

Chair Whitlock adjourned the meeting at 7:00 p.m., noting that the next monthly meeting will be Tuesday, March 22, 2004, at 5:45 p.m., in Room 1054.



Carol Whitlock, Chair

Attest:



Joyce Jackson, Secretary to the Planning Commission