

MINUTES OF THE SHAWNEE COUNTY PLANNING COMMISSION

Monday, June 09, 2008
Shawnee County Annex
6:00 PM

Roll Call and Announcement of Hearing Procedure: Mike Murray, Chairman, called the meeting to order, reviewed the hearing procedure, asked that roll call be taken.

Members Present: Dave Macfee, Kurt Young, Dave Ireland, Marie Carter, Bruce Henriksen, Chad Taylor and Mike Murray. With seven members present a quorum was established and the meeting was called to order.

Members Absent: None.

Staff Present: Barry T. Beagle, Planning Director and Gloria Obregon, Administrative Assistant.

Approval of April 14, 2008 Minutes, Public Meeting: Minutes of the April 14, 2008 meeting were approved with a motion from Bruce Henriksen, second by Dave Macfee, and a unanimous voice vote.

Communications: Mr. Beagle stated he received an accident history report regarding the intersection of NW 46th Street and NW Landon Road and would present the information along with the staff report for that item.

Ex Parte Communication by Members of the Commission: Commissioners cited the following ex parte communications regarding agenda item 1, CU08/02 by I & C Investments, LLC. Ms. Carter relayed she had received a phone call and expressed no declarations or promises. Mr. Taylor stated he spoke with Mr. Kirkwood, Mrs. Harden, the Roots and Kathy Hogel, listening to their concerns, but offered no opinion. Mr. Young stated he received a phone call listening to the callers concerns and made no commitment and Mr. Macfee and Mr. Murray both stated they spoke with Mr. Kirkwood, listening to his concerns and offered no opinion. Mr. Henriksen relayed he had received several calls as well and expressed no opinion. Several members of the commission stated they had driven to the site for observation.

Declaration of Conflict of Interest by Members of the Commission or Staff: Mr. Ireland stated he was excusing himself from participating on agenda item 1, CU08/02 by I & C Investments, LLC, as he is a vested owner in the property and would return for participation for the following two items on the agenda, and then left the room.

Prior to agenda item 1, Mr. Murray welcomed new Planning Commission member Ms. Marie Carter who replaced Ms. Rachelle Vega-Retana.

Public Hearing:

1. **CU08/02 by I & C Investments, LLC** requesting a Conditional Use Permit to establish a public use facility (fire station) on property zoned "RA-1", Rural Agriculture District and located at the northeast corner of NW 46th Street and NW Landon Road in Menoken Township.

Mr. Beagle presented the staff report relaying the applicant is requesting a Conditional Use Permit on behalf of Shawnee County Fire District No. 1, purchaser, to establish a fire station at the northeast corner of NW 46th Street and NW Landon Road. The property consists of approximately 5 acres and part of a larger 31-acre tract of land that is dedicated to agriculture land use. The fire station is being proposed to provide improved coverage and response time to the district patrons. Mr. Beagle displayed

Minutes of the Shawnee County Planning Commission
Monday, June 09, 2008

a map illustrating the boundaries of the district, which spans approximately 96 square miles and includes Grove, Menoken, Silver Lake townships and the City of Silver Lake. The district currently supports two (2) fire stations, both located in the southern area of district 1. One is located within the City of Silver Lake and is on NW Huxman Road, north of US 24 Highway. Altogether, the district serves approximately 4,400 patrons.

Currently the northern portion of the district is beyond the desired 5-minute response time, which is the objective of the proposed location. Mr. Beagle displayed 2 maps with one indicating the northern and eastern portions of the fire district that do not have coverage within the desired 5-minute response time and the other map representing the proposed station at NW 46th & Landon Road as well as another possible station in the future on NW Tibbs Road in Grove Township, which would also be subject to a Conditional Use Permit. Between the two (2) new stations, they would provide the desired coverage and response times to adequately serve the northern and eastern portions of the district.

The proposal provides for construction of an 18,800 square foot unmanned station at the intersection of NW 46th Street & Landon Road with 12,400 square feet on the first floor and approximately 6,400 square feet in the basement. The station would include four (4) apparatus bays, administrative office space and would be able to accommodate public functions and community services. The site plan also notes an auxiliary station that is approximately 6,400 square feet at the northern portion of the site, which could be a possible future building if conditions warrant, and would be used for ancillary equipment storage.

Access to the site would be primarily through NW Landon Road with two (2) entrances that are being proposed and an entrance drive on NW 46th Street. The proposal would also accommodate a 60-foot communications tower and backup power generator along the backside of the building. There would also be a 2-3 story training tower which would be located in the eastern portion of the property and would be used for training exercises as well as ladder rescues and other types of fire training activities. The plan also identifies a future location for a 200-foot communication tower in the eastern portion of the property, which is intended to provide basic communication between stations and field personnel and not intended to serve as a general communication tower for cell phones.

The proposed area is characterized as rural with agriculture being the most predominant land use type. The proposed Conditional Use Permit will not change the zoning of the property but will authorize the additional use of a fire station on the property. Staff does not believe the proposed station will conflict with the rural character of the area or interfere with surrounding properties. The property most directly impacted by the proposed station is anticipated to be the adjoining residence immediately east at 6442 NW 46th Street. The most significant impact is anticipated to be the sound of emergency vehicles as they exit the station in response to a call. The sound is anticipated to be an occasional occurrence and will not be as big a factor during the day time, however, night time calls could become an issue for homes in close proximity. To minimize the sound impact, the Planning Commission could add a condition limiting emergency vehicle sirens from being engaged within a certain distance of the station at night. Another activity that could have an impact would be night time training exercises associated with the training tower, therefore Planning Commission may wish to attach time restrictions associated with those training activities. The proposal also reflects a continuous landscape buffer along the lot line of adjoining residence to the east to lessen impacts associated with the operation.

Access is proposed to be provided by two (2) entrances off of NW Landon Road as well as a single-drive approach off NW 46th Street, with the primary focus into and out of the property being on NW Landon Road and coming through the intersection of NW 46th Street. The operation is not anticipated to

Minutes of the Shawnee County Planning Commission
Monday, June 09, 2008

exceed the capacity of NW 46th Street or NW Landon Road. Mr. Beagle displayed a shaded contour map indicating the terrain surrounding the subject property with no concern expressed relative to the NW 46th Street and Landon Road intersection as being approached from the east. As one passes the residence at 6442 NW 46th Street and approach the intersection one will crest a hill, which was a specific point of discussion with the Shawnee County Public Works Department. Public Works responded that NW 46th Street is posted at a maximum speed limit of 45 MPH, and indicated there should be a stopping distance of 10 times the posted speed limit, which means there would have to be a minimum of 450 feet of separation between the crest of the hill and the intersection. In this case, there is approximately 500-feet of distance between the crest of the hill to the intersection. The Public Works Department has determined there would be adequate stopping sight distance when approaching the intersection from the east. In addition there is a hazard sign posted on NW 46th Street that is visible to west bound traffic and indicates there is a blind intersection below the crest of the hill and one should approach the intersection at 35 MPH, which should provide for adequate stopping sight distance. There is the question of the intersection in general, however, there are no plans for NW 46th Street to be reconstructed to eliminate the hill. The concern of proper signage posted providing notice of the intersection below the crest of the hill and a speed limit sign has been addressed by the Public Works Department who has determined that existing signage adequately addresses those concerns. Mr. Beagle also provided an accident history report from the Shawnee County Sheriff's Department pertaining to the NW 46th Street and NW Landon Road intersection. The report noted four (4) reported accidents within proximity of the intersection since January of 2003, three were none intersection related and involved animals and one vehicle related. The other was related to the intersection where the motorist ran into a fence with fog identified as being the factor.

Staff is recommending Approval subject to the five conditions listed in the staff report. Mr. Beagle also communicated there is a 50-foot notch at the southeast corner of the subject property that was excluded from the subject property. He said it was originally assumed to be owned by the adjoining property owner to the east, however upon review it was determined the 50-foot segment was never properly deeded to the adjoining resident and remains a part of ownership of I & C Investments. Upon that discovery the applicant was going to determine if they would attach that segment to the proposal, but to date, Mr. Beagle has not received an amended site plan incorporating that segment, which if the applicant chose to include, would require re-notification to update the legal description.

Mr. Macfee asked Mr. Beagle if Public Works had any comment on the NW 46th Street entrance. Mr. Beagle stated the question Public Works responded to was primarily the intersection concern, and there was no specific conversation regarding the drive approach on NW 46th Street.

Ms. Carter stated she drove out to the proposed site at NW 46th Street, and upon coming out from NW Landon Road she noticed a few cars that appeared to be going faster than the posted 45 MPH speed limit and is concerned someone will come over the hill and encounter a fire truck. Ms. Carter asked if it would be possible to install warning lights notifying the public there is a fire truck in transit. Ms. Carter said she is also concerned about tractors and farm equipment as they exit onto NW Landon Road, specifically, and the lack of road shoulders to allow one to move out of the way and let a fire truck pass and asked if it would be possible to widen NW Landon Road past the fire station to provide for extra room.

Mr. Beagle said regarding Ms. Carter's first question it is reasonable to consider the request as it relates to traffic safety and a warning light could be installed and activated when the station is responding to a call, or it could be a constant flashing light, with the applicant incurring expenses for the flashing light.

Minutes of the Shawnee County Planning Commission
Monday, June 09, 2008

Regarding the widening of NW Landon Road, Mr. Beagle said that could be an additional condition of commission members, attached to the Conditional Use Permit.

Mr. Henriksen commented he did not favor flashing yellow lights and referenced an accident he was involved in where flashing lights were installed and ignored. He also commented the traffic on NW 46th Street does not always follow the posted speed limit.

After discussion ended amongst commission members, Mr. Murray opened public hearing and called for a presentation from the applicant.

Graig Brummer, volunteer fire fighter with Shawnee County Fire District No. 1 stated the existing fire station at NW Kiro corners was in bad condition and recognized the fire district will not be able to continue with repairs in the future, which prompted the fire district to look at alternative locations for a new fire station to better their response time and provide better coverage for district patrons, especially Menoken Township. Mr. Brummer said looking at the taxation and number of calls of the district, Menoken Township residents were paying approximately 55-60% of the costs to support the fire district and accounted for half or more of the calls while they are provided the least amount of coverage and protection from the fire district. He also stated the medical and rescue coverage is almost non-existent to that area and most of the coverage comes out of the City of Silver Lake, which is why the district was looking at having a station a little farther north and east to provide better coverage. Addressing condition number 3 as recommended by staff, which states "Outdoor training exercises shall be restricted to daylight hours", Mr. Brummer said there would be infrequent times when training would occur at night, and rather than use the term "daylight hours", which would vary with the seasons, that a time frame be set that would be acceptable to neighbors. Mr. Brummer spoke about condition number 4, "Between the hours of 10:00 pm to 7:00 am, emergency vehicles exiting the station in response to a call shall be restricted from sounding their siren within one-eighth (1/8) of a mile of the station" saying that condition may violate state law that requires both lights and sirens be displayed when responding to an emergency condition, but he was not sure of that. He asked if the fire district does not respond in an emergency fashion to an emergency call, would that leave the district subject to liability if adverse conditions result from a specific circumstance? Mr. Brummer provided statistics for commission members communicating there were 279 calls from June of 2006, with 21 calls occurring between the hours of 10:00 pm and 7:00 am in Menoken Township, and of the 21 calls, not all were run in emergency status. Mr. Brummer spoke to condition number 2 which notes the station can only being used for public functions ancillary to its primary function as a fire station, within the hours of 8:00 am and 10:00 pm, stating someone had asked if the station could possibly be used as a polling place in the future, which would affect the set hours as polling places usually open at 7:00 am.

Several commission members had other questions regarding the sounding of sirens, training exercises at night involving the tower and the lighting at night that would be used, which Mr. Brummer answered in detail. Mr. Young asked Mr. Brummer if the proposed site was the absolute best location for their station. Mr. Brummer stated they have looked at several sites for sometime, and as land is available, this site is the best as providing maximum coverage for area patrons. Mr. Young also asked what the district considered regarding access roads in choosing a site. Mr. Brummer stated the district was limited as to available sites because of land availability and the district did look at a site at NW 62nd Street & Landon Road, but they were not able to obtain any property, and he feels the proposed site is the best location. Mr. Murray asked how areas are currently served that do not have the 5-minute response time. Mr. Brummer said they are now served by what is called "mutual aide agreements" which means they call upon other fire stations to assist.

Minutes of the Shawnee County Planning Commission
Monday, June 09, 2008

David Heit, Architect with Schwerdt Design Group, stated his company has been retained by the applicant to assist with the application process and would be available to answer any technical or architectural questions if needed.

Mr. Taylor asked if there would be a future fire station constructed in Grove. Mr. Brummer answered there have been plans to build a community center within Grove and part of that effort would be to add two (2) bays onto the building, which would provide additional coverage for the area, however he does not know the current status as he is not involved with the project. Mr. Beagle said he has had conversations regarding the establishment of a fire station addition to the community center in Grove, and possibly in the next few months' commission members may see the proposal before them.

With no further public comments in support of the proposal, Mr. Murray then called for comments of those in opposition. The following members spoke in opposition to the proposal and expressed the following concerns:

Vern Jarboe, Attorney, 534 S. Kansas, Topeka, KS 66607 spoke on behalf of area residents.

Al Glotzbach, 7927 NW 46th St., Topeka, KS 66539

Sara Corbin, 6717 NW 46th St., Topeka, KS 66618

Duane Anderson, 6120 NW Tibbs, Silver Lake, KS 66539

R. Arlen Kirkwood, 6638 NW 46th St., Topeka, KS 66618

Brandon Nelson, 4821 NW Redwood Dr., Topeka, KS 66618

Joe Stover, 6042 NW 46th St., Topeka, KS 66618

Jeff Campbell, 6544 NW 86th St., Topeka, KS 66618

Mr. Jarboe relayed the following concerns of area residents.

- Area residents feel there was not enough public input or inquiry into the process of where the station should be located.
- The proposed location is not the best suited for a fire station, especially since there are neighbors that would be adjacent to the station.
- The proposed location of NW 46th Street & NW Landon Road poses special problems such as the driveway, which would be adjacent to the residence, and there is no visibility to see traffic coming from the east.
- The emergency generator would be located very close to adjoining residence and asked why it could not be located in front of the station, rather than close to the neighbor's house.
- Drainage issues are a concern as they could be a problem due to the amount of hard surface in a location that is currently vegetation, which would increase the water drainage from the site. The location of the primary structure would better be served by locating it at the north end of the site.
- The drive from the proposed site to the City of Silver Lake was approximately 8 minutes and questioned the 5-minute response time.
- A location 1 or 2 miles farther north would provide a 4-corner intersection, which would be a better site.
- Area residents are not opposed to a fire station on NW Landon Road, just the location of one at NW 46th Street and NW Landon Road and believe the proposed location is not the correct land use for that intersection.

Upon a show of hands of members of the public, an overwhelming response was in opposition to the proposal.

Minutes of the Shawnee County Planning Commission
Monday, June 09, 2008

The remainder of area residents gave the following comments:

- Do not want a fire station close to a neighbor's back yard, and cattle raised in the area would be adversely affected by activation of emergency vehicle sirens exiting the fire station.
- The safety of the intersection is a big concern.
- The side entrance on NW 46th Street is dangerous because there is not a lot of room between the entrance and the crest of the hill.
- NW 46th Street and NW Landon Road is a dangerous intersection because there is not enough clearance to the east and the posted speed limit of 45 MPH is not adhered to and speeding is common on the road.
- The need for the station was questioned regarding response time and one resident believes the response time from the City of Silver Lake is adequate and firefighters should work out of the location of Silver Lake.
- The proposed station would require the building of a 6-inch water line, costing approximately \$82,000 from NW 62nd Street to the station.
- The cost savings in insurance plans for area residents does not offset the increase in taxes they will be paying.
- Privacy trees, which are included in the design may further hinder the view of oncoming traffic.
- The water run-off is a concern, which would cause drainage problems down stream of the property.
- Believes the intersection of NW 62nd Street & Landon Road would be a better location.
- The administrative office at Silver Lake could be shared instead of proposing another one at the new station and training could be shared with Soldier Township or another area.
- The need for sleeping quarters was questioned since the station will be un-manned at times.
- The accident report provided was not totally accurate as NW 46th Street was closed due to the building of 3 bridges during that period and traffic was at a minimum.

Mr. James M. Caplinger Jr., manager of I & C Investments, LLC, spoke to commission members stating he was approached by a realtor for the fire district to build a station at the proposed site and the lot is not a troubled lot, as insinuated because the land could be used to build houses. Mr. Caplinger believed area residents would be happy to have a fire station near by and he does not feel there is a problem with the proposed corner site.

Other comments offered from the public are noted below:

- The relocation of a fire station may eliminate the need for a second possible fire station that is being considered at this time.
- The intersection for the proposed station was corrected years ago because of accidents and people were driving through the intersection, and new developments in the area have increased traffic.
- There were other tracts of land that could have been previously purchased at auctions, which would have been more suitable.
- The process of having items come before Planning Commission members is a waste of time as the public is not engaged prior to the hearing.

Minutes of the Shawnee County Planning Commission
Monday, June 09, 2008

Mr. Murray responded the time of the Planning Commission is not a waste of time and the Planning staff processes the application and provides a recommendation. A public hearing is opened to receive public input, which is the process that is being followed tonight.

In rebuttal to some of the concerns that were voiced Mr. Brummer stated the process has not been a secretive one as the district has tried to buy land in the areas mentioned tonight, and they have been to one auction, which they were unsuccessful, and they have repeatedly tried to buy land at NW 62nd and Landon road which was unsuccessful as well. The district has been trying to provide information for quite some time, going to board meetings, speaking and presenting his proposal and has provided his phone number if there were any questions or concerns. Mr. Brummer said he is open to ideas to make the location more suitable for area residents.

Mr. Taylor motioned to close public hearing, second by Mr. Macfee and with a unanimous voice vote Mr. Murray closed the public hearing.

Discussion amongst commission members produced the comments below:

- The driveway that exits onto NW 46th Street is dangerous as it is a blind spot below the crest of the hill.
- The activation of lights until fire vehicles are 1/8 of a mile away is not a good solution. Volunteer firefighters will be arriving at the station with the sirens on their personal vehicles engaged which defeats the purpose of a restriction.
- A location in Grove Township would be a better location for coverage and safety.
- The proposed location is a bad location for a fire station because of the blind intersection corner and rate of speed on NW 46th Street; and, the impact that fire station operations will have on the adjoining residence immediately east and farmers cattle immediately west.
- A responsibility of commission members is to determine land use and if a proposed location and use is the most appropriate for the land and the surrounding area. A commission member voiced they are not sure the chosen location is the best use of that ground.
- The ranching operation across the road and the effecting of sirens on their cattle herd poses a legitimate concern.
- Safety is a major concern with regard to the proposed location and the intersection.

Mr. Young motioned the Conditional Use Permit be recommended for disapproval, second by Ms. Carter and without further discussion the proposal was recommended for **Disapproval** by a vote of **6-0-1**. (Commissioner Ireland Abstaining and was out of the room)

Mr. Beagle relayed the item would be forwarded to the Board of County Commission for their consideration on Monday, June 30, 2008 at 9:00 AM in commission chambers.

Mr. Ireland re-entered the room at 7:50 PM

Public Comment on Non-Agenda Planning and Zoning Items

There were no comments offered.

Discussion of Planning Related Issues

Minutes of the Shawnee County Planning Commission
Monday, June 09, 2008

- 1. Discuss Possible Amendment Regarding Medical Care Facilities.** Mr. Beagle relayed a conversation he had a conversation with Mrs. Debra Durall who has an interest in establishing a Home Plus long-term care facility on a three-acre site adjoining her families residence at 1744 NE 74th Street. He said that a Home Plus facility is licensed by the state of Kansas to provide care for not more than eight (8) individuals who need some form of personal or nursing care. Mr. Beagle said that a Home Plus facility falls under the definition of a Medical Care Facility, Type II in the Shawnee County Zoning Regulations. Under the current regulations, a property owner is required to reclassify the property first to the "M-2" Multiple Family Dwelling District and then seek a Conditional Use Permit specific for a Medical Care Facility, Type II. Under the circumstances, Mr. Beagle an alternate course of action would be appropriate whereby one could seek to establish a medical care facility in the "RR-1" and "RA-1" Districts by Conditional Use Permit. Such an accommodation would require the zoning regulations to be amended which would eliminate requests to "spot zone" multiple family zoning in location where it would be inappropriate. Amending the zoning regulations to make this type of facility available by Conditional Use Permit within the "RR-1" and RA-1" District would assure compatibility with area property through the public hearing process. He said the Planning Commission is requested to initiate the proposed amendment that will come back before the Commission for public hearing.

The amendment would add another item to the Conditional Use Permit list under the "RR-1" and "RA-1" Districts. In the "M-2" district, where medical care facility, type II now appears as a Conditional Use Permit, he would probably strike that condition and add it as a *Permitted Use* within the district.

Mr. Beagle commented that by state statute accommodations must be made for a group home within a single-family residential district and must be adhered to.

Mr. Henriksen motioned for approval, second by Ms. Carter, and with a unanimous voice vote **Approval** was given to initiate the amendment to current zoning regulations.

- 2. Planning Department 2009 Proposed Budget**

Mr. Beagle provided a breakdown of the 2009 proposed budget for the Shawnee County Planning Department, expressing this was the third consecutive year the budget has been reduced, specifically by 1.05% for the 2009 year.

Mr. Henriksen motioned for approval of the budget, second by Mr. Young and with a unanimous voice vote the 2009 proposed budget was **Approved**. Mr. Taylor asked Mr. Beagle for statistics regarding the building permits issued for year 2007 and 2007. Mr. Beagle stated he would provide the statistics to Mr. Taylor at a later date when the data was available. Mr. Murray commended the Planning Department for voluntarily reducing their budget.

Adjournment:

Mr. Taylor motioned for adjournment, and with a unanimous voice vote the meeting was adjourned at 8:00 pm.