

MINUTES OF THE SHAWNEE COUNTY PLANNING COMMISSION

Monday, May 9, 2016
Shawnee County Annex
6:00 PM

Roll Call and Announcement of Hearing Procedure: Christi McKenzie, Chair, called the meeting to order and asked for roll call to be taken.

Members Present: Christi McKenzie, Nancy Johnson, Jerome Desch, Brian Jacques, Dave Macfee and Matt Appelhanz. With six members present, a quorum was established and the meeting was called to order. Pat Tryon arrived after roll call was completed.

Staff Present: Barry T. Beagle, Planning Director; Joelee Charles, Administrative Assistant; and, Ashley Biegert, Assistant County Counselor.

Approval of April 11, 2016, Public Hearing Minutes: Mr. Macfee moved to approve the April 11, 2016, Public Hearing minutes, seconded by Mr. Appelhanz, and with a unanimous voice vote, the minutes were approved.

Communications: Mr. Beagle stated he had information to share when they got to Discussion of Planning-Related Issues.

Ex Parte Communication by Members of the Commission: There were no Ex Parte communications expressed by members of the Commission.

Declaration of Conflict of Interest by Members of the Commission or Staff: There were no declarations of conflict of interest by commission members or staff.

Zoning and Subdivision Items:

1. **Z16/02 by Iona J. Doty** requesting to amend the District Zoning Classification from "RR-1" Residential Reserve District to "PUD" Planned Unit Development District (office usage) on property generally located at 1700 SE Tecumseh Road in Tecumseh Township.

Mr. Beagle stated the subject property of 1.4 acres included a vacant 1,664 square foot house that was presently up for sale. The purchaser was requesting to convert the house from residential to office use by means of reclassification to the PUD District. No other changes to the property were anticipated except to add an eight stall parking lot along Tecumseh Road. Two small sheds would be removed along the south property line.

The area, approximately 1½ miles east of Topeka, was predominantly rural with large agricultural tracts and rural residential home sites. The "RR-1" zoning allowed for continued agricultural and low density residential land use until urban services were available to allow transition to urban scale uses. No change was anticipated in the foreseeable future and there was no evidence to suggest the property or surrounding area was in transition to higher intensity use or any other use to support the reclassification.

The purchaser claimed the property was vacant for over one year and its value as residential property was not sustainable due to it being located next to the Kansas Turnpike and decreased size to 1.24 acres due to eminent domain. They stated the property was only marketable through reclassification.

By way of background, Mr. Beagle stated in 1998 the Kansas Turnpike Authority added a new southeast toll plaza which resulted in new roadway and interchange configurations. New westbound lanes were constructed in close proximity to the subject property resulting in the house immediately south of the

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, May 9, 2016**

subject property being acquired and removed. 0.18 acre was taken for right of way on SE Tecumseh Road as part of the project. The right of way taken did not affect the main body of the property.

The property was closer to the turnpike but there was a substantial grade change between the property and the turnpike. The turnpike sat much lower and was not visible from the property. If proximity was a real factor then the homes along the south side of the turnpike on SE 21st Street would also be affected. These homes were closer to the highway for a longer period of time and showed no signs of decline.

There may be any number of reasons why the home had not sold. It did not justify a change of use that may be out of character with the area. The Planning Department found no evidence to suggest the property was no longer suitable for rural residential use as presently restricted.

It was the predominant emphasis of the Rural designation of the Interim Development Guidelines that land be retained for agricultural land uses or low density residential land use with adequate public facilities/services. Based on the predominant rural character of this area it was not expected to experience any appreciable change for the foreseeable future.

The general development policies of the guidelines indicate the established pattern of land use must be recognized as a basic factor which strongly influenced rezoning decisions. The established pattern of land use must be recognized in assessing the impact as well as the validity of a zoning proposal. The predominant character of this area was rural and lacked a basic infrastructure to support higher intensity urban development. The area would remain suitable for rural agricultural land use consistent with rural area designation of the guidelines.

The interim development guidelines also established general land use policies that governed major use group categories (residential, office, commercial, etc.). Land use policies in reference to office land use indicated that office development should be confined to areas that were designated as economic activity centers. Outside of defined office parks, the same criteria also indicated office land use can provide a suitable transitional use buffer between commercial, industrial and residential land uses. It could be a compatible/stable land use buffer between otherwise incompatible adjacent land uses.

Based on surrounding land use patterns, the property was not located at a point of transition nor was it part of an identified or planned economic activity center for which the site's conversion to office land use would be expected. To the contrary, the proposed reclassification in Staff's view would constitute spot zoning and be inconsistent with the rural character of the area.

Area property owners had a reasonable expectation that surrounding property would continue to be used for agricultural or rural residential land use. The applicant claimed the property's small size and location adjacent to the Kansas Turnpike dissuaded its continued suitability for residential use. However, the Planning Department did not find any compelling evidence to the contrary. Granting requests that were out of character with an area would establish a bad precedent and could expose the balance of the County to similar requests. The purpose of zoning was to create predictability in land use decisions based on the established pattern of development.

The removal of present restrictions in this case would introduce a use that, in Staff's view, was inconsistent with surrounding property. Granting this type of request would create uncertainty for area property owners. It was Staff's recommendation that this request be disapproved.

Ms. McKenzie asked if any of the Commissioners had any questions for Mr. Beagle.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, May 9, 2016**

Mr. Jacques said they talked about looking at these types of businesses in the County because currently they didn't have a method of looking at businesses in the rural area. He knew there would be discussion with the Comprehensive Plan and presumably these would be looked at. Mr. Beagle agreed.

Mr. Jacques asked what was different between this case and the fence case (Roger Crouch PUD). Mr. Beagle said there had been other applications when the PUD District was used to accommodate a nonresidential or commercial type of use. There had been several cases (Crouch/Prather) where residential properties had accessory structures that were utilized for onsite commercial use. The PUD District was seen as a way to accommodate the continued occupancy of a property as a residential dwelling and also accommodate a business to the rear. There were use and development restrictions in order to try to make it compatible within the context of that specific area.

A more recent case involved the Schiffelbein property which was a much larger tract of land with the main body of the property located several yards off the main traveled roadway. The PUD was used as the mechanism by which to accommodate a live-work arrangement with respect to the property.

The current proposal was different in that it dealt with a smaller tract of land in comparison and there would be no residence. The house would be converted exclusively to office use. Whether that was a compelling issue or a factor to consider, it was one principal difference outside of the parcel size.

Having no Comprehensive Plan, there was no policy to guide them as to how to accommodate all types of land use. They were being defined as they went along based on what was seen in each instance.

Mr. Jacques stated the Crouch property was across the street from industrial zoning. Mr. Beagle said it was another distinguishing characteristic in support of that case in the mind of the County Commission.

Mr. Jacques asked if there was any indication as to how signage or traffic flow would be handled with the proposed property. Mr. Beagle said it was anticipated, based upon the size of the home, that it would generate more traffic than a standard single family dwelling but not overwhelmingly more so.

The Staff report was written from a policy perspective and what would make sense in the long run. If they were looking at compatibility, converting the residence to an office would probably not have much of a direct impact. It was the general principal of how they accommodated land use changes and what was consistent/compatible with an area and what would be the realistic expectation for the use and development of property based upon the predominant land use pattern. It was the overriding principle from Staff's perspective.

Mr. Jacques asked when an applicant would be able to apply for this type of PUD in a residential area if a policy was adopted as part of the Comprehensive Plan. Mr. Beagle said the Comprehensive Plan process was expected to take a year then there would be recommendations for implementation and certain action strategies would take place. The zoning and subdivision regulations would have to be rewritten to implement the Comprehensive Plan recommendations which could take another year.

Mr. Jacques said the Comprehensive Plan would essentially reestablish planning policy for the unincorporated area. Mr. Beagle said it wouldn't reestablish it but it would establish it for the first time. Right now the County had no land use policy governing the unincorporated area of Shawnee County.

Mr. Appelhanz asked if other homes that backed up to the turnpike had been for sale and sold since the turnpike was reconstruction. Mr. Beagle said he could not say if any had been on the market or changed hands, etc. He could only go on the character of those existing homes which were older but had remained in substantially good condition just by a drive by view.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, May 9, 2016**

Ms. McKenzie asked if the turnpike noise was a factor. Mr. Beagle said there was really nothing to distinguish the north side from the south side of the turnpike. He was not overwhelmed by standing on the property and listening to road traffic.

Ms. McKenzie that asked for presentation from the applicant.

Ben Kramer, Kramer Consulting, LLC, 2335 SE Tecumseh Road, Tecumseh, KS 66547.

- House has been vacant since June 2014, almost two years and the owner has been trying to sell the property at 20% less than the County appraised value.
- Realtor has shown it to many potential buyers with no offers and wondered if it was due to the small amount of land associated with the property and the close proximity to the turnpike.
- Homeowners were looking for the typical rural 3 acre tracts that were not potentially a safety hazard or dealing with the turnpike noise. There was a fence with a gate that possibly could be an opening for a small child to maybe get out on the turnpike.
- With the 1998 turnpike expansion, the home south of the property was removed for additional right of way and frontage along Tecumseh Road. It put the house much closer to the right of way and left the structure approximately 50' from the right of way and 43' for the right of way to the turnpike.
- There were a few differences between the residential properties on SE 21st Street and the subject property. The properties on SE 21st Street were typical rural 3 acre tracts and the distances from their right of ways to the homes ranged from 84' to 147'. The subject property was 50'. The distance from the turnpike right of way to the homes on SE 21st Street was between 56'-114' and the subject property was 43'. This could be why the subject property was not desirable as a residential structure.
- In 2012, a Home Occupancy Permit for operating Kramer Consulting was obtained for his residence. His father also had one for his residence for the same purpose. Kramer Consulting provided professional engineering and surveying services. He knew of no complaints on the operation of their businesses in those locations.
- Business did not generate a lot of traffic. Most of their work required them to go to their clients in/out of town. They completed surveys for landowners. One client may come to their office each month.
- They would like to hire additional employees but the Home Occupancy regulations only allow for one employee besides the residents of the structure.
- Typically, they hired summer help to work on their field crew. Wanted to hire one or two more full-time employees.
- They looked at office space in Southeast Shawnee County but had not located anything suitable. The proposed location would serve as a great location for their business serving their clients some of which reside in Shawnee County.
- Their intentions with the property would be to replant the yard, landscape and maintain the current look of the area. It looked fine but they wanted to clean it up and make it look a little more presentable along with the parking that was included in the PUD.
- The current owner, Iona J. Doty, executor of the estate, was unable to attend. She lived at 4845 SE 21st Street, ½ mile from the subject property. She talked with the neighbors to the north, east and south. There were no objections to the proposal.
- Applicant cared about the community and didn't want the property to continue to sit vacant and be a safety hazard to the public. Seen it as a win-win for them and the public.

Mr. Appelhanz asked if they had purchased the property and who was maintaining it. Mr. Kramer said it was under contract, subject to the request being approved and is being maintained by the owner regularly. The owners lived close and the husband walked every day and checked on the house.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, May 9, 2016**

Mr. Appelhanz asked how many would work in the office. Mr. Kramer thought there would be 6-8. Some of the employees were inspectors and survey crews who weren't necessarily there all the time.

Mr. Appelhanz asked Mr. Kramer if he would live in the house. Mr. Kramer didn't think he would.

Mr. Appelhanz asked if they were going to put up a large sign out front. Mr. Kramer said they absolutely would not. They didn't generate the public and people didn't drive by and stop in. They didn't sell anything. They advertised on the internet and phone books.

Ms. McKenzie asked if the property is visible from the turnpike. Mr. Kramer said he didn't know if it would be visible if you were driving down the turnpike. Ms. Johnson asked for a definitive answer. Mr. Kramer said you could see it from the toll booth of the turnpike but just adjacent to it you couldn't see it.

Mr. Desch asked if the property/foundation were destroyed, if it could be rebuilt. Mr. Beagle said it could. It was considered grandfathered since it was that size and shape prior to 1992 when the current regulations came into effect that set the 3 acre, 200' frontage requirement. It didn't violate a setback.

Mr. Desch asked why it was such an attractive location, other than for convenience. Mr. Kramer guessed it was more or less convenience. They served the rural community and generated clients from the County and rural communities so they thought they could serve them better from that location. They liked the rural setting for an office location.

Mr. Desch said several businesses had been allowed but only because people occupied the property. The applicant was not going to occupy the property. He asked how far the property was from the nearest office location. Mr. Kramer didn't know. Mr. Desch said it would be very unique to have a business use in a rural area. Mr. Kramer didn't have any idea on the distance. The turnpike was a business and they had buildings there. Mr. Beagle thought maybe there would be some at the west side of Croco. Mr. Kramer said maybe at Croco Square.

Mr. Appelhanz asked if the property taxes were paid on the house. Mr. Beagle said they were.

Ms. Johnson asked if the two lots (1510 and 1700) were subdivided at one point. Mr. Beagle said they were split out as metes and bounds tracts of land and did not go through a formal subdivision process. It was unique as the right of way gave the impression that it was part of a subdivision. It was obvious what was taken in conjunction with the turnpike reconstruction.

Ms. Johnson asked who owned the tract west of the property. Mr. Beagle said Gary Gilbert owned it.

Ms. Johnson asked Mr. Kramer if he talked to any of the neighbors. Mr. Kramer said he hadn't.

Mr. Jacques asked if the adjacent property owners had been notified. Mr. Beagle said the neighbors within a 1,000' radius had been sent notices and that met the statutory requirement for procedural due process. He had not received any calls or no mail had been returned.

Mr. Macfee asked if the conditions included that no other structures could be erected. Mr. Beagle said the PUD indicates there would be no additional improvements.

Mr. Macfee asked if there were any parking requirements. Mr. Beagle said eight spaces would meet the requirement for a 1,600 square foot structure.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, May 9, 2016**

Mr. Beagle said he typically evaluated the site development plan as part of a CUP or a Master PUD Plan and then wrote up some recommended revisions which were shared with the applicant. Because of the staff's recommendation to not approve, he wasn't making them incorporate the changes but should it be recommended for approval, staff recommends that it be subject to the recommended changes. They were just some additional details that would be addressed as part of the PUD Plan. Mr. Kramer said they concurred with the items on the list.

Ms. Johnson did not understand item #1. Mr. Beagle said the real estate records indicated Clair J. and Iona N. Millard were the owners. Both of them have passed. Iona J. was the executor and daughter and had the authority to initiate the application for the zoning change.

Mr. Jacques asked Mr. Kramer if he agreed with all the recommendations. Mr. Kramer said he did.

Mr. Jacques wanted to know about item #3. Mr. Beagle said since there was no physical change to the property except for the parking lot, Public Works indicated a drainage report would not be required and there would be no additional dedication of right of way needed. A boundary survey would need to be completed if the item was recommended for approval.

Ms. Johnson asked about the signage. Mr. Kramer said they had proposed a sign and showed it on the PUD. It was item #9 of Mr. Beagle's comments. The sign would be 1'6" x 4'8". Mr. Beagle said normally for a PUD he would like to have a little bit more specificity and the reason for requesting the additional information.

Ms. Johnson asked if there was sufficient lighting around the property. Mr. Kramer said there was currently a pole light and there was also a light that came off the turnpike. He thought those would be sufficient. Ms. Johnson said her concern was anything that was seen from the turnpike would look presentable and not trashy. Mr. Kramer didn't anticipate an illuminated sign.

Mr. Beagle stated if the Planning Commission and County Commission voted for approval then those items would be addressed.

Mr. Appelhanz asked about the signage. Mr. Kramer said when people drove by they would see the driveway and the sign. They wanted to maintain the look of the area. They operated from their homes with no signs.

Mr. Macfee asked the location of their rural customers and if they completed any work in the City of Topeka. Mr. Kramer said they basically worked in SE Kansas and the eastern part of the state. They completed engineering work for small municipalities in Eastern Kansas. They have been out as far as Mankato and down around Pittsburg and Frontenac. They had done work in Topeka but not lately. They do development work in the County.

Mr. Macfee asked if Mr. Beagle was saying he didn't see a particular problem in the use but it was more a question of policy. Mr. Beagle stated whether it was a PUD or it was used by some other means, it still had to fit the character of the proposed area. There was nothing that said the lot would be an ideal buffer between commercial and industrial development and residential. Also, it was not in an area that was planned for future office development. From that perspective, it was very difficult for Staff to state this site would be suitable and appropriate for office land use. He had worked with Mr. Kramer for a number of years. Once one was approved, it was saying to the rest of the County that it was okay to consider a variety of different locations and settings. They needed some predictability in the land use work that was being done. Staff was not compelled based on existing circumstances to immediately agree because of the turnpike that it should be considered for office land use.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, May 9, 2016**

Mr. Macfee asked if it would have influenced Mr. Beagle's findings if it had been in a transitional area. Mr. Beagle said Aldersgate had recently requested to rezone 32 acres on the south side of 29th Street for an office PUD. Along the east side of the property separating the Aldersgate property from the commercial corner at 29th and Urish, two lots were zoned office providing the transitional buffer between the intensity of commercial development at the intersection and then stepping back into the traditional Sherwood Estates residential neighborhood off to the west. It was a classic example of office zoning being used as a transitional buffer between two different areas. He didn't see that in this request.

Mr. Macfee asked if the concern was that there might be a different type of operation if a new owner came in to use it as office use who had more employees and more cars. Mr. Beagle wasn't as concerned about that as the establishment of the office use in the first place. He questioned if there was compelling evidence to suggest this property was no longer viable at all for residential use. It was an earth contact home as opposed to a traditional home. He didn't know whether earth contact homes suffered in resale value in comparison to other types of homes. They wanted to create a predictable land use model even though there was no Comprehensive Plan and what the reasonable expectation would be for the development of the area based on the predominant character of the area. From Staff's perspective, it wasn't seen as being consistent within the rural character of the area.

Ms. Johnson thought if the Comprehensive Plan had not been in the works, they might be commenting that it was one more reason they needed one. She had served on the Commission too long and heard that. She thought they needed to pretend a Comprehensive Plan was not being created. She had no reason not to grant this because others were granted. She had fought for the Comprehensive Plan for a long time. She thought they had to go on the premise that there was no Comprehensive Plan. Mr. Beagle said in the absence of any adopted policy governing land use in the unincorporated area, it always came down to the eye of the beholder. It was always going to be a judgment call as they looked at these types of cases.

With no more questions for the applicant, Ms. McKenzie asked if anyone wanted to speak in favor.

With no one to speak in favor, Ms. McKenzie asked if anyone wanted to speak in opposition.

Kenneth Ertl, 4865 SE 10th, Tecumseh, KS 66542.

- Home located some distance from the property.
- Biggest objection to the zoning was the spot nature of it.
- The PUD zoning classification allowed a lot of different types of uses and not just office but basically anything that was going to be approved in the future on this kind of property.
- By zoning it PUD, there was nothing to say the structure couldn't be retail in the future if it came before the Planning Commission and was approved again.
- Closest office to this location was probably about 3 miles away in the areas of 6th and Carnahan or 29th and Croco. Was some retail at Croco.
- No commercial or office property was located anywhere near the location.
- By granting a spot location, it opened it up for requests in some of the undeveloped tracts of land.
- If someone wanted to put a more objectionable use in an area, it would be another spot zoning type of request.
- There was nothing to say they wouldn't have a 400' communications tower in their back yard based on the idea that you could go in and spot zone something and change it to a particular use.
- In spite of what was said, there was a little bit of a traffic problem. There was a two car garage at the location and now there would be 6-8 cars. When travelling over Tecumseh Road there was a hump in the bridge and limited visibility as you came down to that lower area where someone would pull out from that office area. Would be more of a visibility and traffic hazard coming over that.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, May 9, 2016**

- Taking it from a single family to an office situation, there was a septic system on 1.24 acres of land. That wasn't something that would be approved today and that was a factor as well.
- Biggest objection was the spot zoning nature of it and the fact that if this type of thing was approved, then it would be opening it up to any kind of activity wherever it happens to be approved later on down the road.

Mr. Jacques said typically the PUD Plan was limited to only the applicant and only to the requested use. If the property was sold, they would have to come back through this process. They couldn't open a retail facility. It could only be used for this applicant. It was part of why they had PUD Plans.

Mr. Ertl understood but was concerned that a future Planning Commission may approve a different use other than office. Once a PUD was approved for this location, it might make it easier to change it from office to retail. Changing it from residential to office was a bigger transition for them. Ms. Johnson said there would be a Comprehensive Plan by then. Mr. Ertl said that was the hope. All the surrounding counties had Comprehensive Plans. Generally office development was seen along a major artery or intersection rather than in the middle of a residential area. He disagreed with the idea that the property was not suitable for residential. People had lived there for over 40 years. He felt the real estate company hadn't aggressively marketed the property and was why it was still on the market. He was sure the 50 year old property had some dating issues and might need some upgrading. There was evidence to suggest rental property was needed in their part of the County. There was nothing to say that it couldn't be turned into a residential rental.

Mr. Appelhanz asked Mr. Ertl if he would be interested in buying it to make it a rental. Mr. Ertl said he would. He had other rental properties and owned the shopping center at 29th and Croco. He was in that business. He didn't think all the options had been explored as far as marketing the property. He didn't know what the asking price was. He had no idea if it was overpriced or underpriced. There were other options rather than rezoning the property and opening that can of worms for the residents in the area as an alternative to get the property moved.

Mr. Tryon said a tower had been mentioned. He asked Mr. Beagle if it would take special use permit. Mr. Beagle agreed.

Dick Wolnick, 4859 SE 10th Street, Tecumseh, KS 66542.

- When the turnpike interchange was remade a few years ago, the KTA bought five acres from them containing three billboards of which the rent paid almost half of their real estate taxes.
- He contacted the Planning Department and was told he would need to be rezoned to build them back. Was told probably within his lifetime there would be no chance to rebuild the billboards back on their property along the turnpike even though they were grandfathered in. His property would have to be rezoned and that won't happen.
- Since last fall with no one living at the residence, they have had items stolen. They lost two 16 inch military type tires mounted on implement wheels and another 15 inch tire and wheel was found half way across the field towards the southeast corner of that property.
- Did not report it as a theft but should have.
- On January 20, he called the Sheriff and reported that someone had taken copper pipe and wire. Deputies came and made a report. On January 24, he called the Sheriff again as they stole more and also took things from the neighbors along Tecumseh Road.
- Apparently, they had parked in the driveway at 1700 SE Tecumseh Road or along the road there.
- Since the property was zoned residential and if people lived there, it would be less likely for stealing to take place rather than being vacant at night which if it was a business, it would be.
- Also concerned the small house would not be large enough in the future with business growth and would have to be enlarged or rebuilt as the property was rezoned and it could not be stopped.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, May 9, 2016**

- Had asked if the long-range plan by the Planning Department was to have a business along Tecumseh Road. He was told the plan was to keep the area as residential and put businesses where other businesses were. It sounded smart to him. Once you allowed one business in there, there was no stopping another.
- He also questioned the so-called PUD. It seemed to really stretch the meaning of a development district. It was just a single family home not anything bigger than that.

Ms. McKenzie asked if the home could be enlarged. Mr. Beagle stated according to the plan as submitted it would not. It would have to be amended in order to accommodate any expansion.

Mr. Desch said if spot zoning was approved and 1700 became a business, the owners at 1510 could come in and have no opposition to zoning. A problem was created from the first exception and then would always be applying back to that first exception. Security had been mentioned with no one being there.

Mr. Wolnick said they lived there since 1980 and never had anything stolen until that house was vacant. He thought the robbers were coming in at 1700 whether they were pulling in the driveway or parking on the road. If it was a residence, people were there over night. He thought the reason it hadn't sold was the pricing was wrong. It wasn't a real desirable house to move into and far from being move-in condition. It could be but it wasn't.

Ms. McKenzie asked if Mr. Kramer had a rebuttal.

Ben Kramer, Kramer Consulting, LLC, 2335 SE Tecumseh Road, Tecumseh, KS 66547.

- House has been for sale for quite awhile and no one has made an offer to purchase the home.
- Didn't know for sure what the reasons were.
- Were willing to purchase it.
- Didn't sound like there was opposition to what they were going to use it for.
- A new owner would have to come back before the Planning Commission to change the use.
- They don't handle retail.
- Drove by the house every day and thought it would make a great office space.
- After being on the market awhile, he talked to the realtor and looked at the place and thought it would make a good location for their office.
- As far as the theft that was happening, he didn't know if it was coming through that property.
- Hopefully with them occupying it, there would be some security. If something was going on, hopefully their security would catch that and help curb any type of vandalism in the area.

Ms. McKenzie closed the public hearing and asked for comments from the Commissioners.

Mr. Jacques was frustrated by the lack of a Plan to deal with businesses in the County. He believed there were appropriate places throughout rural Shawnee County where businesses should be allowed. He had talked with Mr. Beagle about this issue before. There were many businesses that operated in the County that didn't contact the Planning office. The Kramers were trying to do things the right way by making application. He wished the property was bigger so they could say there was more buffer to their neighbors and might be less offensive. He didn't think that having the turnpike as your backyard wasn't a unique issue in this case because he thought it would be incredibly challenging as a realtor to find someone to buy it. It wasn't impossible but a challenge. He thought it wasn't unusual to see commercial businesses along the turnpike as buffers. He also heard the neighbors and their concerns. He did think there was a bit of a gateway element to this but really felt there needed to be a way for businesses to operate in the County that needed to be addressed. The thought of waiting two years was really not fair to those people. He was conflicted.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, May 9, 2016**

Mr. Desch had spent a number of years in real estate. The property as an office was obviously more valuable than as a residence. There were detractors in that it was small and the interstate interfered with it. Yet, there was a price for residential and the owner obviously didn't want to broach that because it had been on the market for awhile. The applicant was present because it was worth it for them to pay that price because they could intensify its use. That was the conversion. It was why he would be opposed because it was spot zoning and intensified the use of the property. He wasn't discrediting the Kramers. But you couldn't tell him there weren't office spaces available in town. It would be cheaper at this location and more convenient but it would change the character of the real estate.

Mr. Macfee said one reason he had been holding out on a possible vote in favor was the issue that Commissioner Jacques brought up regarding the Comprehensive Plan. Hopefully, it would provide a policy for businesses that operated out of the home. As far as the use, the property was not going to create a lot of problems. He was frustrated there wasn't a policy. There were a lot of zoning violations out in the County. People opened up businesses and didn't do things the right way and the people that did were the ones that suffered. He basically agreed with Commissioner Jacques and had voted pretty consistent in these situations but it was spot zoning. He probably would vote against it.

Mr. Tryon thought the applicant did a good job of providing a compelling reason to vote for it. He always questioned whether or not the PUD was the right avenue for this type of situation and he contended that Mr. Jacques was correct and wished they had a better way to deal with some of these. But ultimately his vote would come down to whether he determined it leans on being arbitrary or not.

Ms. McKenzie asked for a motion.

Mr. Macfee moved for Disapproval of the proposed reclassification; second by Mr. Desch, and with a vote of **3-4-0, Commissioners McKenzie, Appelhanz, Johnson and Jacques dissenting**; the item was recommended for **Disapproval**.

There was some discussion regarding the motion. Ms. Biegert said the motion did not pass and the motion to disapprove failed. The item was still not approved unless there was a motion to approve.

Mr. Tryon moved for Approval of the proposed reclassification with the amendments as submitted; second by Mr. Appelhanz, and with a vote of **4-3-0, Commissioners Desch, Macfee and Tryon dissenting**; the item was recommended for **Approval**.

Mr. Jacques and Ms. McKenzie both encouraged everyone to attend the County Commission meeting to express their views. The County Commission will make the final decision.

Mr. Jacques said there was a case regarding a nursery. You could have a nursery anywhere in the County but you couldn't sell things. They ultimately had to shut down the nursery. It was in a remote area and they didn't have people coming to the facility. It was a stop and go facility. They didn't differentiate between one and the other in the County. There needed to be some guidance and they would get that in the Comprehensive Plan but not for two years.

Ms. Johnson went back to her original comment. Their frustration came from not having anything to fall back on. That was why they have fought for a Comprehensive Plan so they would have regulations.

Public Comment on Non-Agenda Planning and Zoning Items

There were no comments on Non-Agenda Planning and Zoning items.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, May 9, 2016**

Discussion of Planning Related Issues

1. Update on Building Code Committee

Mr. Beagle said the three sub-committees had been meeting. The first committee finished their work of looking at what building codes to adopt for the unincorporated area. The committee's decision was to follow the City of Topeka's building code in order to avoid duplication and two different sets of standards. The second group was still looking at developing a County building code program operating under the mandate of the County Commission that whatever program was developed had to be totally self-supporting. They were looking at fee structures, permit volumes, etc. The third group was looking at the feasibility for the City of Topeka to extend their building code program into the unincorporated area.

A meeting of the entire building code committee was scheduled for May 19th for each committee to report their work thus far and discuss what needed to be completed and to set a game plan for moving forward. Their work had to be wrapped up by the end of the year so hopefully they would be in a position to offer a recommendation back to the County Commission by January 2017.

2. Update on Comprehensive Plan Proposal

Mr. Beagle had met with the consultants to begin outlining strategies. A project logo would be developed first to provide an identity for the project and set a consistent theme on all the documentation. Their graphic designer had provided three different logos (without color) for their review and opinions. They had talked about Shawnee County having many different elements with it being rural in many places but also including the Capital city. Logo #1 showed the typical skyline background with the capital in the center and transitioning out to the farmland. Logo #2 was almost comparable to Shawnee County's current logo. Logo #3 had a more predominant emphasis on the city skyline.

If they didn't like any of the logos, they would need to come up with some other different concepts. They had talked about Shawnee County transitioning from urban to rural and possibly capturing that as part of the logo. They had also added a title that included the year 2036. Since it was a 20-year plan, 2036 would be the benchmark year. That tag line would also be something they would need to define.

Mr. Appelhanz was kind of a logo buff. Initially he liked the second option. It was clean with nice lines but could very easily be confused with or passed by because it was similar to the County logo. Ms. McKenzie agreed with Mr. Appelhanz. Mr. Beagle asked if the logos reasonably captured a unifying concept for the planning document. The graphic designer for RDg was more than willing to put in whatever concepts they would like to consider. Ms. Johnson suggested asking the County Commissioners. Other comments were made. Some didn't like the wheat and it was suggested to change the font. Mr. Beagle said it sounded like #3 was not likely. There were a few that liked #2. #1 seemed to be the one most of the Commissioners liked. One didn't really like any of them.

Mr. Beagle said they had talked about incorporating the Kansas River, a farm silo or something distinctive that would be found in the unincorporated area. They were just conceptual ideas. He thought one of the logos had more of an urban emphasis because of the skyline. They may want to diminish the urban emphasis and show more of a typical rural type of theme.

Mr. Macfee didn't want people to see it as an extension of the City of Topeka. They wanted to have a logo concept that would really represent what people would associate with Shawnee County and the various communities within.

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, May 9, 2016**

Mr. Appelhanz suggested using an outline of the County. Mr. Beagle thought it sounded like there needed to be an emphasis on the skyline and incorporate more thematic elements for the rural unincorporated area. The outline of Shawnee County could be used and then incorporate whatever elements they wanted into it.

Also, in talking with Commissioner Buhler, it was decided the County Commission would select the steering committee. The item was on the May 12th Commission agenda to consider the appointment of up to a 15-member steering committee. He recommended the committee include at least two Planning Commission members. Potential stakeholder groups that could be incorporated would include agricultural, economic development, homeowners, mineral extraction, recreation, natural resources, etc.

The committee would provide local knowledge to help the consultant. They would also be an accountability group for the consultant through the course of eight steering committee meetings from which the consultant would prepare drafts to be cycled through the committee. One of the major functions of the group was to ensure the consultant was mindful, as a result of all the public engagement activities completed (open houses, stakeholder groups, public forums, etc.), that everything identified as issues, concerns, desires, needs, etc. was being incorporated into the action strategies contained within the Comprehensive Plan. The committee filled a vital role in making sure that each of those elements discussed by the public were considered and incorporated into the Comprehensive Plan.

He wasn't expecting them to appoint members at that meeting. Commissioner Buhler indicated she would want to allow for two weeks for them to identify who they wanted to select and appoint. By the end of May, the steering committee would be in place and then the consultant could get to work in laying out the kickoff meetings and some initial strategies for getting it under way.

Ms. Johnson recommended that each Commissioner appoint four members with the caveat that they were looking for people from the various groups. Mr. Beagle said it had been suggested in preliminary conversations with the consultant and Commissioner Buhler. Given the variety of interests that existed within the unincorporated area, all three Commissioners would not be selecting from the same group. It might be suggested that they identify people within those groups and it would be a way to create balance within the committee.

Mr. Jacques thought some of the people that had come before the Planning Commission over the years would be good. He suggested Mr. Peck because he appreciated what the Planning Commission did. Mr. Peck had not always agreed with them. Mr. Peck would have a vested interest. Mr. Jacques thought the gentlemen who owned Thunderbird Square would be a great person from the standpoint that he was obviously involved with economic development. There were people out there who had been through the planning process in some way so they appreciated what the Planning Commission did.

Mr. Beagle said he was excited for the possibilities of what the result would be. It would give definition to all the things they had been struggling with over the years. Whether somebody ultimately got appointed to the committee or not, there was going to be plenty of opportunities through stakeholder meetings for people to provide their opinions.

Ms. Johnson said they could have sub committees made up of those people too. She thought it was important that every single vote and all three Commissioners felt some kind of ownership.

Mr. Beagle stated there would be eight steering committee meetings built into the process. In talking with the consultant, they would like the committee also to assume ownership if they have stakeholder meetings, public forums. The committee would also be out there drumming up interest, making people

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION
Monday, May 9, 2016**

aware of the meetings and just networking within the community to generate as much interest as possible. Ms. McKenzie thought with them appointing a certain number made them network and take ownership.

Ms. McKenzie asked if the Commission had approved the two agenda items from the April meeting. Mr. Beagle said the Aldersgate and the Steinert's Conditional Use Permit were delayed for one week because the Commission wanted information from the consultant. He thought the Commission was concerned that it was going to affect their consideration of zoning, subdivision cases, conditional use permits during this year long process of comprehensive plan development; however, there would be no affect on their consideration of cases. Nobody was advocating or suggesting a moratorium on development. They would continue to process cases as they have in the past. There was also concern expressed about people wanting to bring mass zoning cases or subdivisions fearing what the Comprehensive Plan recommendations might be. All case would still have to be evaluated. They would have to make sense in the location being proposed.

Amy Haase, a principal with RDg, addressed the County Commission and that resulted in a 3-0 vote on each item. There was also a protest petition filed against the Steinert's conditional use permit. There were some people who were in opposition who appeared ready to fight it but the Commission approved it unanimously which was what it took for the conditional use permit to be approved due to the protest petition.

Mr. Beagle had explained to the County Commission that the creation of the Comprehensive Plan was still in the early stages but it provided the opportunity for the Commissioners to meet the consultant to answer their questions. As soon as those comments were made, they went straight to a motion and vote on the two items.

Mr. Desch asked if everyone agreed that future motions should be in the affirmative. It would be clearer and no one would misinterpret it. It was in Robert's Rules of Order. Ms. Biegert said she would check on it. She said it was best to have motions in the affirmative. Mr. Beagle said he agreed with both of them. Having them in the affirmative was always easier. Either way was fine. It has been done both ways. Ms. Biegert stated the items that went to the Commission were for approval. So they wouldn't sign off on a decision to disapprove. The regulations were specific.

Adjournment:

Mr. Desch moved to adjourn, seconded by Ms. Johnson. A unanimous voice vote declared the public hearing be adjourned, which was at 7:47 p.m.