

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION**

**Monday, July 10, 2017
Shawnee County Annex
6:00 PM**

Roll Call and Announcement of Hearing Procedure: Pat Tryon, Chair, called the meeting to order at 6:00 p.m. and asked for roll call to be taken.

Members Present: Pat Tryon, Christi McKenzie, Brian Jacques, Jerry Desch, Judy Moler, Matthew McCurry and Brian Aubert. With seven members present, a quorum was established and the meeting was called to order.

Staff Present: Barry T. Beagle, Planning Director; Joelee Charles, Administrative Assistant; Joni Thadani, County Counselor.

Approval of March 13, 2017, Public Hearing Minutes: Mr. Jacques moved to approve the April 10, 2017, Public Hearing minutes, seconded by Ms. McKenzie, and with a unanimous voice vote, the minutes were approved.

Communications: There were no communications from staff.

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: Mr. Tryon stated he had not discussed Item 1 with his daughter who lived in the vicinity and not sure if she lived in the 1,000 foot radius.

Zoning and Subdivision Items:

- 1. CU17/05 by Ronald & Marie Sanders (David & Renee Stevens, Purchasers)** seeking a Conditional Use Permit to establish an Animal Boarding Facility on property zoned "RR-1" Residential Reserve District and located approximately 620-feet north of SW 61st Street on the west side of SW Wanamaker Road in Mission.

Mr. Beagle presented the staff report and recommendation to the Planning Commission. He indicated the proposed kennel boarding facility would be subject to a state license issued by the Kansas Department of Agriculture, Division of Animal Health. If the CUP is recommended for approval, it is recommended that it be subject to the Steven's obtaining and maintaining their state license.

Mr. Beagle also noted the applicant is proposing to install an on-site septic system in connection with the proposed kennel. The Health Department, however, notes the subject property is within 200-feet of a sanitary sewer on the Washburn Rural High School complex immediately to the east. Based on the Environmental Code, connection to a sanitary sewer is required for improvement of property within 200-feet of a sanitary sewer. At the same time, the City of Topeka Planning Department has issued as Wastewater Waiver, relieving the property owner from connecting to the sanitary sewer based upon their Land Use and Growth Management Plan. It is recommended that the CUP be conditioned on the satisfactory resolution of the sewage disposal method before a building permit to construct the kennel building is applied for.

He indicated that the proposed kennel operation is not otherwise anticipated to lead to off-site negative impacts in relation to neighboring property and recommended the Conditional Use Permit be approved subject to the five conditions outlined in the staff report.

With no questions for Mr. Beagle, Mr. Tryon asked if the applicant had a presentation.

Mark Boyd, Schmidt, Beck & Boyd Engineering, LLC, 1415 SW Topeka Boulevard, Topeka KS 66612.

- Representative for the Sanders as well as for the Stevens' CUP application.

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- Thought Mr. Beagle had summarized the request thoroughly.
- The Stevens' CUP process for the kennel on Fairlawn Road was halted last fall due to a compliance issue with deed restrictions. They decided to sell that home and look for property that would comply.
- Last year the Sanders broke their 20 acres into tracts anticipating they were going to sell them as residential tracts. The Stevens found this parcel and thought it would be a good fit.
- The City granted a waste water waiver last year when the property was split but wasn't executed until recently. It was more likely they would have to connect to the public sanitary sewer system.

Mr. Jacques asked about the traffic flow and an expected capacity of the closed facility. Ms. Stevens stated the current facility housed 16 dogs. The new facility would have at least 24 suites. Sometimes there were 2 dogs per family and they would share a suite. It was a more private and intimate facility. It would be a gated community. Dogs would not be roaming all over the property.

Mr. Desch asked for details about the Stevens' former kennel operation. Ms. Stevens said it was open for approximately two months. They had applied for a building permit in order to add kennel space for boarding dogs. They were then notified they needed a CUP. The CUP application was withdrawn when they found their property included a covenant which prevented commercial usage. A cease/desist notice was also received. At the new location, she would work full time with her husband, a kennel person and a groomer. A physical therapist and physical therapy department would be added when they could afford it. As far as breeding, they were training their own four English bulldogs in order to show. One bulldog was inseminated and it had its first litter last November. They were not breeders and she wasn't sure she ever wanted to be a breeder. No membership fee was required to be part of the daycare or overnight boarding. It was an elite and private facility.

Mr. Tryon asked if there would be an advertising sign on Wanamaker. Ms. Stevens said they had not discussed it. Mr. Beagle said the site plan showed a 3' x 4' monument style sign located at the entrance.

With no further questions for the applicant, Mr. Tryon asked if anyone wanted to speak in favor.

Kay Marie Sanders, 5934 SW 69th Street, Auburn, KS 66610.

- Lived in the area many years.
- Parcel owned/farmed by family for over 100 years. Most had a great love for farming.
- Her family did not inherit her dad's love for farming.
- Didn't want to be the one to sell it and had chances to sell but turned offers down for various reasons.
- The Stevens thought the big meadow would be an ideal place for their project. Mr. Stevens told her the new facility would be even better and had answered her questions about various concerns.
- Her two daughters visited the Stevens daycare and were impressed with the sanitation, cleanliness and amenities the dogs were offered.
- If the business ceased or the owners moved or sold the land, the CUP would be null and void.
- Thought they would be assets to the community.

Ronita K. Sales, 6046 SW 61st Street, Topeka, KS 66610.

- Lived with her husband and daughter around the corner.
- Her mom's family had farmed the land for over 100 years and it was one of her favorite places.
- Was sad at the thought of the family not having the land.
- Visited the facility and saw the passion they had for their own dogs and what they wanted to do.
- Didn't think there would be an issue with the traffic or dogs barking.

Lynn Carradine-Haley, 2300 SW Shunga Drive, Topeka, KS 66611.

- A friend who has handled dogs for 20 years. Dealt with kennels, boarding facilities, doggy daycares.

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- Runs a veterinary clinic that offers boarding, grooming and veterinary services.
- Told Renee it would be a lot of work to do it the right way. Anyone could put up kennels, put dogs in them, feed/water them and hand them to their owner.
- Can't call it a kennel. It will have individual rooms with solid walls similar to a horse stall/suite.
- Fencing would be a nice vinyl or metal. Dogs would not be hurt by getting their paws stuck in chain link.
- Barking and stress levels were less because the dogs felt like they were at home.
- With the drains, the kennel can be instantly cleaned and be dry within a minute with the Wysiwash system that was a bleach/disinfectant system that was instantaneous.
- People seemed to panic when they heard "kennel" due to what they've heard about other kennels.
- Minimal noise and didn't think a bark would be heard ever.
- As far as odor, the Wysiwash system was nice and their ventilation system was excellent.
- A nice facility and probably the best one she has seen.

With no one to speak against and no discussion among the Commissioners, Mr. Tryon asked for a motion.

Mr. Jacques moved to recommend Approval of the item with the five conditions noted in the staff report; seconded by Ms. McKenzie. With a vote of **7-0-0**, the item was recommended for **Approval**. Mr. Beagle stated the County Commission would consider the item for final determination on July 31.

2. **SP81/01A by Cole Family Trust** requesting to amend the Special Use Permit to replace an existing 280-foot guyed tower with a 290-foot self-supporting tower on property zoned "RA-1" Rural Agriculture District and located at 8320 SW 85th Street in Auburn Township.

Mr. Beagle stated the Cole Family Trust on behalf of American Power Corporation was requesting to amend the existing Special Use Permit to replace the existing tower with a self-supporting lattice tower. He determined there was enough of a structural change in the type of tower and its visual appearance to necessitate a major amendment which required a public hearing.

The existing guyed tower had a slender profile and maintained a consistent width from the base to the top. The self supporting tower had a wider base for support which was more of a profile change in comparison to the original tower. An extensive tree cover encompassed the tower compound which effectively shielded it from neighboring property. The existing tower was located out in the center of the 9.5 acre parcel. The new tower would be located approximately 20 feet west of the existing tower and the tower compound would be extended slightly in order to accommodate the new tower in its place. Photo simulations were provided to show the differences.

Staff did not make a recommendation. The Special Use Permit was granted 36 years ago to allow the existing guyed tower. The Planning Commission has to decide whether to grant an amendment to allow for the tower replacement and if there would be any impact to surrounding property. In Staff's view, this was an issue best evaluated by the surrounding property owners who would be impacted. The validity of the existing Special Use Permit authorizing the existing tower was not at issue. If the amendment was denied, the Special Use Permit remained in effect and the existing tower could be replaced with a new tower of substantially the same design and height. If recommended for approval, it would be subject to the three conditions outlined in the staff report.

Mr. Tryon asked if there were any questions for Mr. Beagle. Ms. Moler asked how many property owners were notified. Mr. Beagle stated there were more than 30 notified.

Mr. Desch asked if the Special Use Permit covered the entire tract. Mr. Beagle said it encompassed a much larger area when initially granted in 1981. The site today comprises 9.5-acres. The site was surrounded on two sides by commercial and semi-industrial uses to the north and west and mainly rural residential tracts to the south and east.

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Mr. Aubert asked what the three conditions would be. Mr. Beagle stated they were: Compliance with the submitted site development plans; submit a new FAA determination based upon the change in the tower type and height; and, submit an application for a Demolition Permit at the same time they seek a building permit for the new tower. The existing tower would be demolished upon completion of the new tower.

Mr. Tryon asked if the applicant had a presentation.

Mark Sprecker, Polsinelli, 6201 College Boulevard, Suite 500, Overland Park, KS 66211.

- Representative on behalf of American Tower.
- Stated Mr. Beagle's report was accurate and complete.
- They were in agreement with the stipulations.

Mr. Tryon asked about the fall radius. Mr. Sprecker stated these towers were designed to fall on top of themselves and crumble down rather than just tipping over.

Mr. Desch asked about the change in the type of tower. Mr. Sprecker said the new tower would be stronger and allow more users to co-locate. American Tower was primarily in the business of putting as many users on a tower and leasing out the space. It would help reduce the number of towers.

Mr. Aubert asked if the existing tower foundation would be strong enough to host a new tower. Mr. Sprecker said the existing tower was 36 years old and needed to be replaced. The new one would allow for more co-location than the guyed tower just by design. Mr. Aubert asked for the color of the tower. Mr. Sprecker didn't know what color would be used. Usually it was the monochrome gray color.

Mr. McCurry asked what the tower would be used for. Mr. Sprecker said it would be used for cell phone antennas.

Mr. Aubert asked what provisions were made for falling ice. Mr. Sprecker didn't know but knew that the towers had different mechanisms to protect the base station from ice falling down and knocking the lines out.

Mr. Tryon asked if anyone wanted to speak in favor.

Andrea Carman, 6120 SW Wanamaker Road, Auburn, KS 66402.

- Asked if there would be power lines involved.

Mr. Sprecker said it was used for cell phones.

With no one to speak against, Mr. Tryon closed the public hearing and opened it for Commission discussion.

Ms. Moler moved to recommend Approval of the item with the three conditions noted in the staff report; seconded by Mr. Jacques. With a vote of **7-0-0**, the item was recommended for **Approval**.

Public Comment on Non-Agenda Planning and Zoning Items

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

Discussion of Planning Related Issues

Mr. Beagle said the Comprehensive Plan was now being finalized. An open house for the public was held on June 15. A hearing notice would be published for the August 14 Planning Commission public hearing. If

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more time was needed to make a recommendation, a follow-up date of August 28 has been reserved. The latest draft could be emailed to them or they could access it via the website before that meeting. The plan would be considered by the County Commission in September.

Mr. Beagle presented his 2018 budget to the County Commission. Questions were asked about the approximately \$56,000 included in the 2017/2018 budgets. It was included in the 2015/2016 budgets to fund the Comprehensive Plan. It was needed to rewrite the regulations to implement the Plan's policy recommendations. He hoped they would approve the 2018 budget request to include that amount.

Mr. Jacques asked for more information on the rewrite. Mr. Beagle said they could extend RDg's contract to write the new regulations. A new RFP could be requested but no one would be as knowledgeable. RDg would be providing a cost estimate and hoped they could be completed within \$100,000 or less. It may possibly be more labor intensive. A committee would evaluate the issues. He wanted a unified development ordinance where all the zoning, subdivision, floodplain management regulations were fit together in one document. The County Counselor's office would be involved in the process.

Mr. Desch asked how the Planning Commission would respond during the interim. Mr. Beagle said the Plan would set a new model for development. It could possibly take one to two years to implement new regulations so accommodations would have to be made. They should think about the process. Ms. Thadani said the Plan was a guide for future County development and a guide to implement the steps. The Statutes required an annual update. If changes were needed after one year, they could make them. Mr. Beagle said if the Plan was adopted, they would have to consider the Plan's recommendations. No matter why type of case, they would have to determine if it was consistent with the Plans recommendations. The Plan would be Shawnee County's model for the future. If something was proposed that was out of context, they had a guide or reason to disapprove.

Adjournment:

Mr. Desch moved to adjourn, seconded by Mr. Aubert, a unanimous voice vote declared the public hearing be adjourned, which was at 7:10 p.m.