

**MINUTES OF THE
SHAWNEE COUNTY PLANNING COMMISSION**

**Monday, November 13, 2017 – 6:00 PM
Shawnee County Annex**

Roll Call and Announcement of Hearing Procedure: Pat Tryon, Chair, called the meeting to order at 6:07 p.m. and asked for roll call to be taken.

Members Present: Pat Tryon, Jerry Desch, Brian Jacques, Judy Moler, Christi McKenzie, 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, Assistant County Counselor.

Approval of October 9, 2017, Public Hearing Minutes: Mr. Jacques moved to approve the October 9, 2017, Public Hearing minutes, seconded by Ms. Moler, 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: There were no declarations of conflict of interest by commission members or staff.

Zoning and Subdivision Items:

1. **CU17/06 by Hidden Hill Farms of Kansas LLC** seeking a Conditional Use Permit to establish a reception, conference, assembly facility and cultural facility on property zoned "RA-1" Rural Agriculture District and located at 7320 SW Indian Hills Road in Auburn Township.

Mr. Beagle stated the applicant was requesting a Conditional Use Permit (CUP) to establish a reception, conference and assembly facility; and, a cultural facility on their 76 acre tract including their residence. The facilities would be utilized through prearranged lease or contracts and not open to the general public. The reception, conference and assembly facility would accommodate social events, corporate retreats, etc. The cultural facility would allow for events that go beyond a social or corporate type of retreat. All of this would allow people the opportunity to come and enjoy a traditional rural farm setting. Their purpose was not to accommodate intensive type of land uses/activities but provide a peaceful and tranquil setting to expose people to nature as well as traditional sustainable farming practices.

Staff did not anticipate any negative influences associated with this proposal. The applicant, through their written narrative as well as their site development plan, laid out the intended usage of the property. It should operate compatibly within the neighborhood. Staff was recommending the Conditional Use Permit be approved authorizing both the reception, conference and assembly facility; and, the cultural facility subject to the seven conditions as outlined in the staff report.

Mr. Aubert asked which statute would not allow the use of the land for this without the CUP. Mr. Beagle stated the CUP made available the opportunity to host different functions like in a commercial setting which otherwise would not be automatically allowed under the current zoning. The existing zoning allowed for either residential occupancy or for continued agricultural operations.

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

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Angela and R. J. Dake, 7320 SW Indian Hills Road, Auburn, KS 66402.

- Thanked them for the opportunity to share information about their farm.
- Wanted to share their beautiful piece of land with other people.
- One area had a sunken bowl environment so there was no light pollution. Great location for star gazers.
- They had livestock so they wanted to make it available to students. School groups were interested.
- There would be a confined area for social activities and an area for education.
- An opportunity for people to view the butterflies in the fall and the diversity of prairie grasses.
- Field trips or learning sessions would be offered for those who were interested in exploring.
- All activities would be available by appointment only and it would not be open to the general public.
- They would host groups or have an expert on campus to share their expertise.
- Classes or seminars would include smaller groups of 10 to 15 people.
- They would be taken out either through a hay ride or walk out to a particular location.
- Areas were named to help identify the location. Wildflower Meadow (Weddings), Cottonwood Meadow (Social), Monarch Meadow and Hidden Hill which was completely surrounded by trees.
- Staff from the state had visited and thought there were a lot of natural and, maybe, undisturbed grasses that were unique.
- Cottonwood Meadow had numerous seeps for those familiar with the geology. Students may not get to see them outside of a textbook. This would provide an opportunity to see it in action.
- Saw the opportunities but their intention was actually to preserve and appreciate.

Ms. McKenzie asked when the facilities would open. Ms. Dake thought it would be spring. A heavy smoke odor was being removed from the home that may take more time and funding to be completed.

Mr. Jacques asked for information on the parking. Mr. and Mrs. Dake indicated there would be 80 spaces covered with gravel. They thought there would be enough and didn't think they would all be used. Most were located by the barn and the corral, off the bigger part of things. They didn't want to destroy what they were trying to show. They moved them into other areas where dirt was moved in preparation for other things like their 96' x 30' high tunnel (a big greenhouse). They had received a grant from the United States Department of Agriculture for growing table crops. There was an incredible shortage of people in Kansas farming table crops. It could also be part of an educational program. They were hoping to partner with K-State students and offer internships to help spark an interest in agricultural development and farming.

Mr. Jacques asked if alcohol would be allowed. Mr. Beagle said it wasn't specifically addressed. Mr. and Mrs. Dake weren't applying for a license and had reservations about alcohol since it was always where trouble started. Would they say absolutely zero, they were learning as they went.

Mr. Jacques asked about security. Mr. Beagle said it was built in to their plan. Any time it was in operation the applicants or a hired professional security person would be present.

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

Richard Edmiston, 7646 SW Indian Hills Road, Auburn, KS 66402.

- In favor of the proposal.
- In reading the proposal, noted that neighborhood privacy was mentioned and that was important.
- They didn't want their lives interrupted and lived in the country for a reason.
- Anything that could be problematic was covered in the proposal.
- Thought it would be operated according to the rules.
- If any problem surfaced, it would be taken care of immediately.
- There was concern for the neighbors' feelings and what they thought which was important.

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Steve Berg, 7243 SW 69th Street, Auburn, KS 66402.

- Has known Angela and R. J. for 1 ½ years and they are upstanding citizens.
- They do exactly what they say they are going to do.
- They are always concerned about what's going on.
- Has visited the property and was shown some of the plans.

Mr. Desch asked if the CUP would continue upon the sale of the property to a new owner. Mr. Beagle said it would continue and any new owner would have to abide by the CUP.

With no further questions, Mr. Tryon asked if anyone wanted to speak in opposition.

Jesse Tucker, 7148 SW 77th Street, Auburn, KS 66402.

- Not really for or against the proposal.
- His farm was adjacent to the Dakes' property and he farmed a big patch of his ground.
- He wanted to bring it to their attention that he would be plowing, working ground, planting, etc. He would hate to have his wedding next to a neighbor who had a tractor running wide open.

Joan Pagel, 2417 SW Bradbury Avenue, Topeka, KS 66611.

- An absentee land owner who rented out the property across the street and down a couple parcels.
- Asked if the CUP would change the classification of the property.

Mr. Beagle asked if she was asking based on a zoning or taxation perspective. Ms. Pagel indicated it was taxation. Mr. Beagle thought it would still be viewed as an agricultural tract of land. Ms. Thadani didn't know what else it would change to other than agricultural. Ms. Pagel thought since it was being leased out, if part of it would be changed to commercial use. Mr. Beagle didn't think it would be assessed from a commercial perspective. He didn't anticipate any offsite impacts.

Mr. Tryon commented that if the activity ceased to exist, the CUP would go away. Mr. Beagle agreed.

Carol Marple, 10249 SW Wanamaker Road, Wakarusa, KS 66546.

- The idea sounded really cool.
- Asked if the 60' easement into the property was wide enough to support traffic and emergency vehicles. It was a gravel road and there would be a number of cars using it.
- Thought it was a great idea and she knew that they needed to teach kids more about agriculture.

Mr. Beagle stated each case was submitted to the township, county and service entities for review and comment. None were received to indicate any concern on the intended use of the property and emergency access.

With no further comments, Mr. Tryon asked if the applicant wanted to rebut any of the items.

Angela and R. J. Dake, 7320 SW Indian Hills Road, Auburn, KS 66402.

- Highly treasured and valued their farm setting so any naturally occurring farm noises were considered part of the charm of the environment. Had no concerns about the noise.
- Guests would be informed the environment would be active agriculture.
- As far as the gravel and traffic, everyone would come within a certain time frame and leave within a certain time frame. Constant traffic going in and out was not anticipated.
- Visitors would exit by going down to 69th or they could go up to 85th. A fairly smooth flow.
- They could make the 20' road wider if needed. They anticipated school buses coming in. All the turns are already set for very large agricultural vehicles, trailers, etc.

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With no additional questions for the applicant, Mr. Tryon closed the public hearing and asked for discussion from the Commissioners.

Mr. Aubert asked if the 40' right of way would be left open or adding an additional drive. Mr. Beagle said they were asking to dedicate 40' of additional right of way along the 60' frontage on Indian Hills Road. Mr. Aubert asked about SW 77th. Mr. Beagle said it was based on the functional classification of those streets. The rights of way on Indian Hills Road and 77th Street have been in existence for quite some time. Any time a new project was proposed, Public Works would review and try to get the additional dedication of right of way. No new entrances would be created. It was just the additional dedication of right of way along the roadway.

With no further discussion among the Commissioners, Mr. Tryon asked for a motion for approval with the seven items suggested by Staff.

Ms. Moler moved to recommend Approval of the item with the seven conditions noted in the staff report; seconded by Mr. Aubert. 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 December 7th.

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

Comprehensive Plan

Mr. Tryon stated the County Commission returned the Comprehensive Plan to the Planning Commission for further review with a deadline of 180 days. They may request additional time if needed. Public comment would be requested first and then discussion would follow from the Planning Commission on how to proceed with their review. There would be additional opportunities for public comment as they proceed through the process.

Mr. Beagle stated the Planning Commission held two public hearings in August. On August 28, the Planning Commission approved to submit the Comprehensive Plan to the County Commission for its consideration. On October 16, the County Commission adopted a resolution not accepting the Comprehensive Plan. The resolution included eight pages of questions, suggestions, and modifications for them to consider. Previously, the Planning Commission had decided to meet in a work session which would allow them to talk amongst themselves to decide on how to proceed so they could offer a recommendation back to the County Commission.

Mr. Tryon opened the floor for public comment.

Marge Ahrens, 1238 SW Mulvane Street, Topeka, KS 66604

- A resident of the county for 35 years whose interest in planning comes from experience living in other states but also some education.
- Thanked them for their extraordinary efforts as volunteers and staff in creating a comprehensive land use plan for Shawnee County.
- The planning process is difficult; however, in the county, it has had a long and unhappy history.
- By definition, comprehensive land use planning recognizes the amenities of a place. Land, rivers, streams, air quality--the basic resources we cannot live without and all that has been added including a place's historical treasures. It includes the maybe billions of dollars of investments by the community in infrastructure and developments through the years. Those resources may or may not recognize political boundaries within the county. We tend to take them all for granted.

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- Plans are data driven rather than blown by the wind of politics or business interests.
- Plans are imbued with the sense of what the community values and troubled by and expressed in documents such as the city's plan and the Go Topeka Holistic Plan.
- Data is quantifiable and compiled from the U.S. Census, the U.S. Department of Agriculture, and many other data sources that are tested and proven to be accurate or adjusted through research over years.
- The data shows the county is gifted with prime farmland that is appreciating in value, irreplaceable and capable of producing the most food for the least cost and currently contributes heavily to our economy.
- We cannot ignore: the investment citizens have made in public infrastructure; the costs of providing essential services to those living where they are separated by miles of roads; and the verifiable conflicts between city type development and farming (dust, smells and noise) for those who want city services in the county.
- Resolution #2017-38 raises questions about the potential negative impacts on the price of county land and shouts out demands for a re-focus on economic development and fear of zoning to follow.
- In comparison, Riley and Douglas County created comprehensive plans as early as the 1970s. Their population has increased by 3.1% and 8.1% in the last six years with increased property valuations of 2%-5% higher than those of Shawnee County.
- Their plans do not attempt to dominate their values with business interests. They value and protect their natural resources, the rural nature or open space, as it creates quality of life for all their residents.
- Economic interests serve those existing resources and values—not the reverse.
- Agricultural land protected by planning and zoning increases in value at a higher rate than what is abandoned to scattered development.
- Economics are subject to our community's natural gifts, additions in its amenities and the provision of future services at the least cost to taxpayers.
- By emphasizing economic development throughout the resolution and in a large section of the comprehensive plan, we lose focus needed to build our county plan in an understandable, frugal and sustainable manner.
- We can't decipher our values in the clatter for wealth though speculation and hopes for unbridled development.

Mr. Tryon stated he found Ms. Ahrens' testimony exceptional. He thanked her and asked her to provide a copy of her comments for the minutes. He asked if anyone had any questions.

Ms. McKenzie asked Ms. Ahrens where she found her passion for ag land and nature. Ms. Ahrens said her parents came up from farms in Wisconsin. Her first husband had urban planning and economics degrees and together they had a passion.

Mr. Tryon asked if anyone else wanted to speak.

Paul Post, 2101 SW 2nd Street, Topeka, KS 66606.

- Lived at current address since 1980 and in Topeka since 1972 except when he served in the Air Force.
- Returned to Topeka to open a law practice in 1978. Now retired.
- His interest has always been in Topeka and in Shawnee County.
- Troubled to see how Topeka's population has/hasn't grown and essentially stagnant for many years.
- Lawrence and Manhattan are vibrant communities with excellent growth in the cities rather than out into the county. Opposite of what has happened in Topeka. Wonders why the county has had considerable growth but the city's growth was stagnant. It may be as the proposed plan points out that these two counties have had long standing plans in place for the development of their counties.
- Thought it would help to focus the citizens on an overall vision of what needed to be done going forward instead of them doing their own thing.
- Urged them to pass a Comprehensive Plan such as what was proposed.
- Knew the entire County Commission had trouble with it and sent a rather lengthy memo on what they wanted the Planning Commission to consider.

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- It didn't mean the Planning Commission should throw it all out and not have a plan.
- There should be a plan but maybe not this plan. Maybe go back to the drawing board.
- There are a lot of good things in the plan.
- Have friends who live on West Union Road on a beautiful tract of 120 acres overlooking the Flint Hills with only a few farms nearby. They recently found out the neighbor across the street sold off the frontage of his 180 acre property and now three homes were being built there. They weren't happy because it detracted from and upset the balance of what they understood to be a rural farm setting.
- Without planning, this is what can happen. People can simply decide they don't need all their land and retire from the farming business and subdivide it to have homes built on the frontage of the property.
- It might be a person's right as a property owner to do what they will but in a community you have to consider not only the rights of individual property owners but the rights of the community as a whole.
- That is not what has happened here in Shawnee County because we have not had a Comprehensive Plan. This was the first opportunity to consider a plan.
- Need to consider what the young people are interested in such as compact cities, walk able cities and cities that have amenities within the core of the city not spread out in a haphazard manner.
- Thought it was the Planning Commission's opportunity to tell the County Commission why it was a good plan and should be adopted.

Mr. Desch asked Mr. Post for his opinion on the development of Shawnee County over the years. Mr. Post stated his central Topeka neighborhood had not changed much since he moved in there in 1980. He had lived at 1324 Washburn from 1972-1974 while attending law school at KU. It was a very nice, pleasant older neighborhood. When he returned from the Air Force, that neighborhood was already in decline and disrepair. It simply had to be rebuilt from the ground up. He was concerned the inner city was not well utilized and should be. Many wonderful old homes could be completely refurbished and remodeled. A lot could be done to build up Topeka. He felt that Topeka had an inferiority complex and thought it could be traced back to the 1966 tornado which essentially tore the heart right out of the city. There were a lot of old neighborhoods that never recovered from that. He noticed the Kansas River was mentioned in the plan. Friends of the Kaw have been promoting the Kansas River. They built access ramps about every ten miles on the river so people could float the Kaw on a day float. At one of their annual dinners, a speaker had said it seemed that everybody in the state knew Topeka was the capital of Kansas except Topekans. He thought that was true. We should be proud of the fact that we are the capital city. He thought they were on a path now to develop some pride in our city and get over the inferiority complex we have had for so long.

Mr. Desch asked Mr. Post how he would feel if his friends wanted to sell off lots on their property and the neighbor across the street was trying to file a stop order. Mr. Post said he empathized with them. They moved out there 25 years ago for the rural setting and the beauty of a rural environment. They had lived in central Topeka. They did not want people encroaching on their property. To have someone simply say they were going to cease farming and start building houses out there would be fine if the community considered that and said it was okay. Our community has not considered that until now through the plan. There should be community involvement. As a community, how do we use property understanding that people have rights to use their property but also understanding there were certain limitations on how they could use their property.

Mr. Aubert asked if Mr. Post's friends built a home or was there an existing farm house. Mr. Post stated the existing farm house was in disrepair so they built a new home. Mr. Aubert asked if they were farming the land. Mr. Post said they lease out the property to a neighbor who cut the grass and baled it for hay.

Mr. Jacques asked Mr. Post what prompted him to attend the meeting. Mr. Post stated Marge Ahrens had notified him of the meeting and has followed this issue for some time. It was important to look at these issues carefully. As a citizen of Topeka and Shawnee County, sometimes he felt like our County Commissioners were representing everybody but the people of Topeka. They were representing the folks who live outside of the city and they were most of the people who, like them, reside within the city. There

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were vibrant communities around us and he would like Topeka to be the type of vibrant community that he knew it could be. Years ago, long before any of us were here, there were developers in Topeka who labeled Topeka the Boston of the west. They were so proud of their town. They thought it was really going to be a shining star in the Midwest similar to what Boston was on the east coast. Somehow along the way we lost that vision. Maybe this plan wasn't the way to reinstall it but thought each person just doing what they will wasn't going to do it either.

With no additional comments, Mr. Tryon closed the public hearing and asked for discussion from the Commissioners.

With extensive discussion on how to proceed and respond to the County Commission's Resolution #2017-38, the Planning Commissioners agreed their review would begin with the Introduction and Chapters 1-3 and assigned them as follows: Mr. Tryon—Introduction, Ms. Moler—Chapter 1, Mr. Jacques--Chapter 2 and Mr. Desch-Chapter 3. The four Planning Commissioners will report their findings to the Planning Commission at their next meeting.

Adjournment:

Mr. Jacques moved to adjourn, seconded by Ms. McKenzie, a unanimous voice vote declared the public hearing be adjourned, which was at 7:49 p.m.