

**CITY OF DE SOTO
PLANNING COMMISSION**

City Hall, 32905 W. 84th Street
July 28, 2009 – 7:00 P.M.

MINUTES

1. The meeting was called to order at 7:00 p.m. by Chairman Mike Kroeger.
2. Roll Call: Chairman Kroeger introduced the new members: Linda Lane and Steve Winslow).

Roll Call:	Crumbaker	Present	Kroeger	Present
	Hemphill	Absent	Krudwig	Present
	Honomichl	Present	Lane	Present
	Winslow	Present		

3. General Business:

- A. Approve Planning Commission Agenda. Chairman Kroeger reviewed the Agenda.

Motion by Commissioner Honomichl to approve the Agenda; second by Crumbaker.

All Commissioners approved by “ayes”.

Motion carried.

- B. Approve minutes of the April 28, 2009 Planning Commission meeting.
(The May 26 and June 23 meetings were cancelled due to lack of quorum.)
Commissioner Crumbaker requested on page 5 of the April 28th Minutes that his comment should be clarified that there is a need for the City to be involved and oversee the County’s zoning board matters that are on the City’s borders. He referenced the properties on 95th Street that could have had some joint planning impact from the City. Commissioner Crumbaker said he sits on the County Zoning Board and he stated the interests of the City need to be represented at the County level. Discussion ensued among Commissioners and staff.

Commissioner John Krudwig asked about the meetings that were not held in May and June. The clerk stated there are no minutes since there was not a quorum to open an official meeting. Discussion between staff and Commissioners.

Motion by Commissioner Honomichl to approve the Minutes as modified at this meeting; second by Winslow.

All Commissioners approved by “ayes”. Commissioner Krudwig abstained as he was absent from that meeting.

Motion carried.

- C. Disclosure of conflicts of interest. No conflicts were stated.

- D. Disclosure of outside communications regarding Commission business. None were stated. Commissioner Crumbaker said he has had comments made to him, but he has not discussed any business.

4. Call to Public:

Members of the public who wish to address the Planning Commission regarding items not on the agenda may do so at this time. Any presentation is for information purposes only. No action will be taken. There is a four-minute time limit.

No one appeared and the Call to Public was closed by Chairman Kroeger.

5. Public Hearing:

- A. Public hearing to consider an application for a Special Use Permit for the placement of a residential accessory building within the established front yard at 30755 West 90th Street. Planner Bohnsack reviewed the comments in the staff report dated July 28, 2009, and provided to Commissioners. She explained the purpose of a Special Use Permit, and then discussed the staff findings and reviewed the determinations of the required considerations for the permit.

The twelve (12) findings relating to the matters to be considered are positive in favor of granting the application.

Discussion ensued between Commissioner Honomichl and Planner Bohnsack regarding the need for the special use permit for this property. Planner Bohnsack discussed the updated changes regarding accessory use buildings.

Commissioner Crumbaker said Planner Bohnsack did good work on this and he appreciates the staff report. He and Planner Bohnsack discussed the application.

Chairman Kroeger asked about any right-of-way on 90th Street. Planner Bohnsack said there is no established right-of-way on the north side of this property. The properties in the area are not platted.

Commissioner Krudwig stated he has looked at this property and feels the location of the accessory building is appropriate for this site.

Commissioner Winslow asked if there is an expiration date on this Special Use Permit. Planner Bohnsack said there is not; however, the Commission can assign a date. Commissioner Krudwig commented.

The applicant, Kevin Dunn, was present and stated he plans to stick to the plans submitted and meet exactly what the application states. Chairman Kroeger asked what the use of the structure will be. Mr. Dunn said it is woodworking and hobby work. Commissioner Crumbaker asked if this has been a good process for him. Mr. Dunn said Planner Bohnsack has been "fabulous" in providing the information to him.

Chairman Kroeger opened the public hearing. No one appeared and he closed the public hearing.

Commissioner Honomichl asked when a special use expires if the building is torn down. The Commissioners discussed the City's regulations.

Motion by Commissioner Crumbaker to recommend approval of the application as filed, and in making our recommendation, we find that the applicant has met all of the regulatory requirements for this use, that the required considerations are all positive and that the use will not pose a nuisance or have a detrimental affect upon the neighboring properties or the community in general. We recommend that the requested Special Use Permit for an accessory garage in an established front yard area be approved according to the submitted application materials as based on the staff report dated July 28, 2009; second by Honomichl.

Roll Call:	Crumbaker	Yes	Kroeger	Yes
	Hemphill	Absent	Krudwig	Yes
	Honomichl	Yes	Lane	Yes
	Winslow	Yes		

Motion carried.

- B. Public hearing to consider an amendment to the Zoning Regulations that will create a rural-use zoning district. Chairman Kroeger stated this is a use that the Council has directed the Planning Commission to consider. Planner Bohnsack stated she has provided several considerations for comments. She stated the Commission needs to first decide what the purpose is to be and then go through the proposed regulations and assign the uses, intensity and area regulations so that a draft can be provided for further discussion.

Commissioner Honomichl discussed the proposed language template that has been prepared by Planner Bohnsack. Commissioners discussed some proposed language and regulations of the City of Lawrence that our City Council preferred to use as a starting point for the City's Rural Reserve zoning district. The City Council held a workshop on May 12, 2009, and the discussion points are in the staff report dated July 28, 2009. Chairman Kroeger stated the City does not have a "holding zone" for property within the City. Discussion continued by Commissioner Crumbaker, staff and Commissioners regarding the "holding zone" and the exhibits, especially Exhibit "F", regarding agricultural uses and services to be provided to the "holding zone".

Chairman Kroeger stated he attended the Council's workshop and he feels some Council members thought an agricultural use was worthwhile within the City. When it comes to the City providing services to these areas, then there is a big question. Commissioner Honomichl said the ten-acre minimum fits the "urban service overlay" and he feels there should be an element in the regulations to allow the use that is currently ongoing, but not encourage premature development.

Discussion continued among Commissioners and Planner Bohnsack regarding the urban services costs verses density. Planner Bohnsack discussed the "cluster" development process. Commissioner Honomichl said he agrees; however, the applications generally come in "one at a time". Commissioner Honomichl asked if de-annexation came up in the Council workshop discussion. Chairman Kroeger stated the new district will be more restrictive than the present RUR zoning district. Commissioner Honomichl said maybe these properties should just be in the City, and what benefit do they get by being in the City. He stated maybe it makes more sense for the owner to preserve their "RUR" zoning by being in the County, rather than in the City.

Commissioner Krudwig stated most of this discussion was started by the annexation and when future properties are brought into the City, will those properties be compatible with the use. Chairman Kroeger commented that the "key" is the twelve months for the current use under the special use permit.

Commissioner Crumbaker asked if the Council has debated the issue of “de-annexation” of these properties that are in question. Chairman Kroeger stated there was no discussion at the workshop regarding de-annexation.

Commissioner Kroeger opened the public hearing for comment.

John Anderson, 305 S. Brittany, Olathe, Kansas, said he is one of the principals of JAA Farms which is the titleholder to some properties being discussed. He stated they hold a number of properties in Kansas, and one that is about 600 acres in De Soto. There is a small part of this acreage that is on the east side of the creek that remains in the RUR zoning. He stated they plan to continue with the agricultural uses until some time in future when it is appropriate to develop. His concern in the proposal being discussed centers around the protected use category the City may be proposing. He said they are content to be in the City, but the proposed use isn't what they want; they want to stay as RUR until such time the property can be developed. JAA Farms doesn't want to become a “city park” without a formal taking of the property.

Chairman Kroeger asked if JAA Farms wants to continue an agricultural use under RUR. Mr. Anderson stated they pay taxes and they would prefer to stay as they are and operate as a farm. Planner Bohnsack commented that a large portion of this property is in the flood plain.

Commissioner Crumbaker asked if Mr. Anderson would prefer R-O zoning. Mr. Anderson stated that would be more beneficial to them. He said he has a fear that as time passes and faces change, there could become a hurdle to overcome as a perpetual “green” area. Discussion ensued between Commissioners and Mr. Anderson.

Commissioner Crumbaker said there was a discussion about the appraiser's opinion of the zoning. He said Mr. Welcome, County Appraiser, specifically stated at the Rotary Club that if the property was zoned commercial, it would definitely have an impact upon the appraised value of the property. Planner Bohnsack stated Mr. Welcome also stated that anyone sowing and reaping seed could fall under the agricultural use. Mr. Anderson stated his main concern is that this property is somehow pigeonholed into a holding pattern or becomes park land.

Bob Zindler, 33180 W. 95th Street, stated he doesn't trust anything from the City of Lawrence. He would like to see large lots and land preservation. Mr. Zindler said those who were annexed in 1998 have sat in a “no man's land” for eleven years. He would like the properties to be zoned “RUR”. He further stated that most of the traffic on the road since the City has put oil on the road isn't the property owners; it is other taxpayers that use the road daily.

Dan Schneider, 9295 Cedar Creek Road, stated the handout provided by staff was extremely helpful.

Linda Zindler, 33180 W. 95th Street, said she is looking for protection of the rural use. She asked if it would be appropriate for the parcels to be brought in under the new zoning, then the property owners could decide the use for their property. She wants to protect and preserve the uses that the property owners currently have under the County's zoning.

Chairman Kroeger thanked the citizens for their comments, and closed the public hearing.

Discussion by Commissioner Honomichl and Planner Bohnsack regarding the “limited agricultural” use definitions. Commissioner Honomichl said his preference is to strike the word “limited”. Discussion continued regarding the terminology in the agricultural uses of the Lawrence regulations. What is the City all about in preserving the uses? Commissioner

Crumbaker asked if this language could be specifically designed to address the uses within the City, and the purpose for these large tracts of land within the City. A discussion ensued. Planner Bohnsack provided a map of the subject properties and discussed the zoning requests by property owners to remain agricultural. Discussion on the rezoning of the properties in a certain period of time after a property is annexed, according to the use of the property.

Commissioner Crumbaker said maybe we should go back to clarifying the “R-O” properties and defining the uses and preserving the rights of the properties; and then, look at the new district and its purpose and intent for use.

Commissioner Winslow asked about the platting process and the review process of the plat submittal. A discussion ensued among Commissioners. Commissioner Crumbaker stated again that a zoning classification is a property owner’s right to do certain things under the zoning that has been granted. All the property owner has to do is meet the infrastructure requirements for that particular zoning classification. It is a property owner’s legal right. A discussion continued by Commissioner Crumbaker on rezoning a property unless there is a need to rezone it at the present time, not what may or may not happen in the future. Commissioner Honomichl said the City can have a great Comprehensive Plan but they can’t make it real. He is in favor of the Future Land Use Plan.

Planner Bohnsack stated maybe the Commissioners should schedule a workshop to discuss these points in more detail and come up with a new zoning district as requested by Council. A discussion ensued about massaging the current R-O zoning and incorporating some agricultural preservation. Discussion ensued regarding the City’s previous “urban services overlay” district.

Commissioner Honomichl asked if this matter should be tabled pending a workshop to further debate the language. A discussion ensued between Planner Bohnsack and Commissioners regarding items to be discussed during the workshop, including preservation of the existing agricultural use currently provided to the property owners in the prior County zoning.

Commissioner Crumbaker said he would like staff to confirm with the City Attorney that the “urban services overlay” will serve the purpose of protecting areas from premature development. The overlay is in Future Land Use plan.

Motion by Commissioner Krudwig that the PC establish a workshop meeting at a future date to define two things; one being a potential service overlay area, as well as an agricultural preservation language either to be as a new district or an R-O district, for presentation to the City Council for their consideration; second by Honomichl.

Roll Call:	Crumbaker	Yes	Kroeger	Yes
	Hemphill	Absent	Krudwig	Yes
	Honomichl	Yes	Lane	Yes
	Winslow	Yes		

Motion carried.

Planner Bohnsack asked if August 11th would be a good date for the workshop. Chairman Kroeger asked that she email the Commissioners to confirm a date.

Chairman Kroeger called a five-minute break at 9:28 p.m. Chairman Kroeger reconvened the meeting at 9:35 p.m.

- C. Public hearing to consider an amendment to Article 11 Site Plan Review of the Zoning Regulations requiring a Site Plan Review when converting an existing residence to a non-residential use.

Commissioners discussed the contents of the staff report dated July 28, 2009, regarding the wording changes that are proposed. Planner Bohnsack discussed the business code requirement concerns that the City's Building Official has with the change in use.

Chairman Kroeger opened the public hearing. No comments were presented and he closed the public hearing.

Motion by Commissioner Honomichl to approve the text amendment as proposed in the staff report; second by Crumbaker.

Roll Call:	Crumbaker	Yes	Kroeger	Yes
	Hemphill	Absent	Krudwig	Yes
	Honomichl	Yes	Lane	Yes
	Winslow	Yes		

Motion carried.

- D. Public hearing to consider adoption of the amended Comprehensive Plan incorporating all previous updates through June 19, 2008. This is the annual review of the Comp Plan for a recommendation of approval by the City Council. Discussion between Commissioners and Planner Bohnsack. The Council last approved the Comprehensive Plan update with the Downtown Overlay District.

Chairman Kroeger opened the public hearing. No comments were presented and he closed the public hearing.

Motion by Commissioner Honomichl to recommend approval of the Comp Plan by the Council in its entirety with the revisions since the last time the Comp Plan was approved; second by Crumbaker.

Roll Call:	Crumbaker	Yes	Kroeger	Yes
	Hemphill	Absent	Krudwig	Yes
	Honomichl	Yes	Lane	Yes
	Winslow	Yes		

Motion carried.

6. Old Business:

- A. Consideration of an amendment to the Official Zoning Map for the City of De Soto, Kansas that will change the zoning on 150 parcels from a County zoning classification to an appropriate City Zoning District. (Tabled 4/28/09)

Recommendation: Table for consideration of rural zoning district.

Motion by Commissioner Honomichl to table this matter regarding the zoning change for the 150 parcels in a County zoning classification; second by Winslow.

Roll Call:	Crumbaker	Yes	Kroeger	Yes
	Hemphill	Absent	Krudwig	Yes
	Honomichl	Yes	Lane	Yes
	Winslow	Yes		

Motion carried.

7. **New Business:**

- A. Discussion of PC term length, rotation and term expiration. Planner Bohnsack commented on the length of the terms and discussed the exhibit provided in the staff report dated July 28, 2009. She discussed the Attorney General's opinion regarding a commissioner continuing to serve even if the appointment time has expired. Discussion led by Commissioner Krudwig regarding the terms and the chairman and vice-chair serving with terms ending at the same time. Commissioner Honomichl commented regarding his experience as serving in the chair and vice-chair offices.
- B. Election of Officers for the 2009-2010 Planning Commission year. Commissioner Honomichl said he feels Chairman Kroeger and Vice-Chair Krudwig should serve another year. He proposed a slate of officers for consideration. Discussion.

Motion by Commissioner Honomichl to propose the slate of officers with Mike Kroeger as Chairman, John Krudwig as Vice-Chair and Lana McPherson as Secretary; second by Crumbaker.

Roll Call:	Crumbaker	Yes	Kroeger	Yes
	Hemphill	Absent	Krudwig	Yes
	Honomichl	Yes	Lane	Yes
	Winslow	Yes		

Motion carried.

8. **Staff Discussion and Advisory Reports**

- Wind & solar energy planning workshop - status
- Status of wayfinding signage system and logo development
- Fence Regulations – Finished side
- Planning Handout – Planning is Un-American (e-mailed 7/06/09)
- Planning Handout – Sustainability and Green Planning

Planner Bohnsack commented on the above items and provided updates. Steve Chick, City Building Official, provided an email regarding amending the fence regulations. Planner Bohnsack will provide draft language for an amendment at the next meeting.

9. **Calendar:**

- A. *August 6th* - City Council - Tentative Planning agenda items include:
 - Consideration of Comprehensive Plan adoption
- B. *August 20th* - City Council - Tentative Planning agenda items include:
 - Consideration of Site Plan Review amendment
- C. *August 25th* - *Planning Commission – Tentative agenda items include:*
 - Further discussion and possible action on Rural zoning district
 - Further discussion on RUR Rezoning issue

Pending Business

- Special Use Permit application for a microwave tower for private use
- Special Use Permit application for archery range
- Wind/Solar Energy Workshop

- Regulations for Wind Energy Conversion Systems (WECS)
- Regulations for Solar Energy Conversion Systems (SECS)
- Extension of Preliminary Plat for De Soto Ridge Subdivision
- Comprehensive Plan review issues: gateway/viewshed criteria, downtown redevelopment plan and design criteria

Issues for Future Discussion

- Consideration of Conservation Subdivision regulations
- General review of the Future Land Use Map
- General review of Zoning Map for inconsistencies between use, zoning and comp plan
- Comprehensive Plan and Regulations comparison
- Stream buffer regulations
- Floodplain, natural areas and open space protection overlay regulations

Planner Bohnsack provided an email from Sara Ritter, Executive Director of the EDC, regarding a meeting on August 15th from 8 a.m. to Noon at City Hall for the Targeted Industry Study Update. Ms. Ritter invited the Planning Commissioners to attend this meeting.

Motion by Commissioner Honomichl to adjourn at 10:15 p.m.; second by Crumbaker.

All Commissioners approved by “ayes”.

Motion carried.

Respectfully submitted:

Lana R. McPherson, MMC, City Clerk