

CITY OF DE SOTO
PLANNING COMMISSION
City Hall, 32905 W. 84th Street
August 25, 2009 – 7:00 P.M.

MINUTES

1. The meeting was called to order by Chairman Michael Kroeger.

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

3. **General Business:**

A. Approve Planning Commission Agenda.

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

All Commissioners approved by “ayes”.

Motion carried.

B. Approve minutes of the July 28, 2009 Planning Commission meeting.

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

All Commissioners approved by “ayes”.

Motion carried.

C. Disclosure of conflicts of interest. None were stated.

D. Disclosure of outside communications regarding Commission business. None.

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.

5. **Public Hearing:**

A. Public hearing to consider a text amendment to the Zoning Regulations concerning fence regulations. Planner Bohnsack reviewed the staff memo dated August 25, 2009, which also addressed concerns stated by the City’s Building Official. Staff has reviewed regulations from some surrounding cities and Johnson County. These were provided to Commissioners. Chairman Kroeger asked for comments.

Commissioner Winslow asked about “security wire” as this is the type of fence that Intervet constructed on property that abuts Mr. Winslow’s property. Discussion ensued between Commissioner Winslow and Engineer Brungardt regarding the differences in the fencing regulations between commercial and residential property. This would be handled through

the special use permit process, a variance procedure or in zoning regulations. Comments by Commissioner Honomichl regarding site plan regulations that deal with fencing requirements. Commissioner Winslow asked about how the fencing regulations are enforced. Engineer Brungardt stated the fencing permits are handled by the City's Building Official.

Planner Bohnsack discussed a fence permit should also be required whenever extending an existing fence; or when replacing, moving or repairing an existing fence by 50% or more.

Commissioner Krudwig asked whom the City's Code Enforcement person is and if that person drives through the City and notices violations. Engineer Brungardt stated Pam Graff is the Code Officer; however, the Building Official would likely handle most fencing matters.

Discussion ensued between staff and Chairman Kroeger regarding fencing between major roadways or railroads and residential property. Commissioner Honomichl stated the enforcement of this could be handled at the Site Plan Review. Commissioner Krudwig commented on who is going to pay for fencing should a fence be required between residential and a railroad or a highway.

Commissioner Honomichl said the depiction of the various types of fencing does not follow the ground flow in the exhibit. A discussion ensued on the maximum separation of the fence from the ground level. Commissioner Honomichl said the fencing should follow the ground level. Discussion continued among the Commissioners and staff regarding a maximum height at the bottom and the top of the fence. Staff will level out the line on the fence graphic.

Chairman Kroeger asked if the term "decorative fence" needs to be defined. Staff discussed the definition that is given in the fence regulations. Discussion that barbed wire is not allowed in residential areas.

Commissioner Honomichl commented on the exceptions in the "R-A" Rural Agricultural District. Chairman Kroeger commented on the language of "not the intent of these regulations to discourage creative and attractive fence designs." Planner Bohnsack and Commissioners discussed the language.

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

Motion by Commissioner Honomichl to recommend approval of the supplementary fencing regulations pertaining to fences with the following changes from the proposed language shown in Exhibit A: 1) strike the last sentence of A. Intent..."It is not the intent of these regulations to discourage creative and attractive fence designs; 2) to modify the fence graphic in Section C to indicate the ground to be straight and horizontal and that the vertical indication of height be from the ground; 3) revise Item C.2 regarding height to read: "fence height shall mean the maximum vertical dimension from the top of the fence façade to the ground"; 4) that Item E.2 be deleted pertaining to fences being required along major streets and railroads; 5) and that the added definition regarding major street definition at the bottom of Exhibit A does not relate to the text amendment and shall be deleted; second by Lane.

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

Motion carried.

6. Old Business:

- A. Discussion of an amendment to the Zoning Regulations that will create a rural-use zoning district. Planner Bohnsack requested Commissioners comment on the revised amendments. Discussion regarding fishing ponds and hatcheries and whether or not this is a typical agricultural use. Commissioners agreed that this would be a commercial use and not in the "R-A" District.

Commissioners discussed the impact of a cemetery use in an "R-A" zoning. The Commissioners agreed to change the word "Harvesting" back to "Logging". Commissioner Honomichl said he doesn't think a "Retreat or Camp" needs to be included in the "R-A" uses. Commissioners agreed and this will be struck from the amendment language. The "Marina" use will be by special use permit only.

A discussion ensued on the definition of "Livestock" as defined in the City's Code. The Code addresses the "livestock" definition for residential. Commissioner Lane proposed that the livestock definition be expanded for the "R-A" district. Planner Bohnsack stated the Supplementary District Regulations and the City Code will need to be revised for the "R-A" District. Commissioner Honomichl stated that, at this time, the livestock definition should remain as it is until all the applicable pages can be amended at the same time. Commissioners agreed.

Discussion continued between staff and Commissioners regarding the boarding/riding stable/arena category. Commissioners agreed to leave this under a Special Use Permit. Commissioner Krudwig discussed the vineyard and winery verses an orchard. Planner Bohnsack said state statutes regulate vineyards.

Commissioners and Planner Bohnsack discussed the Table of Lesser Zoning District Classification as it would apply to the "R-A" Rural Agriculture District. Engineer Brungardt discussed the differences between the zoning district intensity of uses. Commissioners agreed to the "None" for the three classifications of "R-A", "R-O" and "R-1" in the 'lesser' zoning districts.

A discussion was led by Commissioner Honomichl regarding the "accessory dwelling" language as stated under Section 4. Use Limitations of Accessory Structures. Commissioners agreed the language should read "as defined in Article 2 and allowed in Appendix A.

Planner Bohnsack and Commissioners discussed the language in Section 2.A. and concurred with staff on the language amendment. Commissioners then discussed Section 3 concerning accessory structures. Commissioner Honomichl said he would prefer to see the actual language that is going to be recommended for "R-A" changes. Engineer Brungardt stated the Agricultural regulations also apply.

Chairman Kroeger asked for comments from the public regarding the new Rural-Agricultural district.

Mr. John Anderson, III said that if there were an agricultural operation, the accessory structures would vary between operations. He commented that it is common to have one or more hired men to work on the acreage and for them to live on the property for security reasons. Mr. Anderson commented on the agricultural use and the 150-foot setback from the right-of-way of the public road. He said, with all due respect, the Commissioners need to "start thinking like a farmer" in making these amendments.

Jim Plummer, 9570 Cedar Creek Road, said he owns two parcels on either side of the road. He asked about the 10-acre zoning restriction. Chairman Kroeger said if the County zoning was

RUR, then the property will become a legal non-conforming use.

Chairman Honomichl said he recommends the language be kept the same as “R-O” and additional language for the number and size of accessory structure. Discussion. Engineer Brungardt stated there are some state statutes that protect the agricultural use of 40-acre and larger tracts of farmland. Commissioners requested staff provide the state’s exemption language for them to review. Commissioners agreed that the restrictions apply as currently stated for the R-0 district for tracts up to 10-acres in the R-A District.

Commissioner Lane provided comments from the workshop materials regarding the farming operation of 20 acres and accessory structures. Discussion ensued. Commissioner Crumbaker asked if the County’s regulations for accessory structures have been reviewed. Chairman Kroeger said the Commissioners need draft language before them before they can make a recommendation. Planner Bohnsack said she could put the draft language together for consideration. Chairman Kroeger said he would like to see the County’s regulation on the accessory structures for more than 10 acres. Commissioner Honomichl and Engineer Brungardt discussed that the true agricultural use of the property is the determining factor on the accessory structures for more than 10 acres of ground.

Commissioner Crumbaker commented on the boarding of horses’ language should be limited on a specific number.

Commissioners discussed Section 12. Home Occupations and the home occupations allowed for agricultural areas. Discussion that this doesn’t need to be included, and Commissioners agreed to strike this.

Commissioners previously agreed to strike Section 14. Livestock and Animals and that it would be considered along with proposed changes to the City Code—if needed.

Commissioners are in consensus with Article 6 and Article 7 as written. Chairman Kroeger discussed Article 8 and the buffering, and he requested reference points from other cities and the County. Planner Bohnsack provided comments on the example that provided 100-foot buffering between residential and agricultural uses.

Engineer Brungardt said he doesn’t see the need for a buffer between “R-A” and the “R-O” zonings. Staff will amend the table and bring it back for review. Chairman Kroeger initiated discussion on Exhibit B regarding the Definitions. Commissioner Honomichl said the definition of “Livestock” should be stricken from this list. Commissioner Honomichl and staff discussed the Appendix A definitions. Chairman Kroeger asked if these terms are being referenced in other regulations; and if so, those terms need to be consistent throughout. Discussion ensued between Commissioner Honomichl and Planner Bohnsack on defining the terms. Commissioner Honomichl said he would like to take these definitions off-line because these definitions do not reflect the same names in the proposed text. Chairman Kroeger said he would like the definition be defined in the use description. People need to always refer to Appendix A for definitions and they can be expanded in that table.

No changes have been proposed for Exhibit C. This language was discussed in the workshop. Item 4.C. should state “Minimum” Width to Depth Ratio: 1:4.

Commissioner reviewed Exhibit D and said the “R-R” should be changed to “R-A”. Chairman Kroeger commented on the Crop Production. He said Darrel Zimmerman said in a previous meeting that crop production could not be restricted. Staff will discuss this with the City Attorney for clarification. Commissioner Krudwig asked about the large-scale intensive livestock operations. Commissioner Crumbaker said this is dealt with under the intensive livestock regulations. Discussion that Category 112 includes these uses unless excepted.

Chairman Kroeger discussed the Arts, Entertainment and Recreation and said some of these uses should not be allowed in the agricultural district. Commissioner Krudwig said 712 should be allowed under a special use permit. Commissioners reviewed those with staff. Revisions will be made by staff.

Motion by Commissioner Honomichl to table this item to the September meeting; second by Crumbaker.

All Commissioners approved by "ayes".

Motion carried.

- B. 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.

Chairman Kroeger said he would like information from the County regarding how this amendment will affect the property owners' tax bill before any further action is taken.

Motion by Commissioner Honomichl to table this to the September meeting; second by Winslow.

All Commissioners approved by "ayes".

Motion carried.

7. **New Business:** N/A

8. **Staff Advisory Reports:**

Planner Bohnsack comments on these items:

- Council comments/action on July agenda items

Council approved recommended actions on the previous month's business.

- American Planning Association membership renewal

Commissioners indicated they were in favor of continuing the membership and appreciated the publications and information received.

- Wind & Solar Energy Planning Workshop – September 29, 2009 – 7:00 p.m.

Commissioner Krudwig said his opinion is this is a short time and most people need at least 30-45 days to plan to attend this workshop. He said this is a great idea, but he feels this is short notice to get the most feedback from everyone. Planner Bohnsack said she will postpone it until October or November.

9. **Calendar:**

- A. *September 3rd* - City Council - Tentative Planning agenda items include:

- Temporary Use Permit for Prairie Traditional Archer for event at Widow Big Knife Park.
- Consider development agreement with Glavin Development for Senior Housing

- B. *September 17th* - City Council - Tentative Planning agenda items include:

- Text Amendment for Fence regulations

- Consideration of the Rural Agriculture zoning district – this will be tabled
- C. *September 22nd - Planning Commission – Tentative agenda items include:*
- County Rezoning issue
 - Special Use Permit application for archery range

Pending Business

- Wind/Solar Energy Workshop (scheduling speakers for Sept 29)
- Regulations for Wind/Solar Energy Conversion Systems (~October)
- Extension of Preliminary Plat for De Soto Ridge Subdivision (October agenda)
- Site Plan Review for Glavin Development for senior housing (~November)
- Special Use Permit application for a microwave tower (no additional information)
- Comprehensive Plan review issues: gateway/viewshed criteria, downtown redevelopment plan and design criteria
- SUP criteria for a Stable: boarding, training, riding for use with the R-A District

Issues for Future Discussion

- Green building codes
- Consideration of Conservation Subdivision Design regulations as a development tool
- Package sewage treatment plant
- General review of the Future Land Use Map to consider amending areas where recent zoning decisions do not agree with map recommendations.
- Comprehensive Plan comparison with Zoning & Subdivision Regulations in order to better implement the Plan
- Stream buffer regulations
- Floodplain, natural areas and open space protection overlay regulations

Motion by Commissioner Honomichl to adjourn at 9:55 p.m.; second by Crumbaker.

All Commissioners approved by “ayes”.

Motion carried.

Respectfully submitted:

Lana R. McPherson, MMC, City Clerk