

MINUTES

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

2. Roll Call:	Allenbrand	Present	Kroeger	Present
	Hemphill	Present	Krudwig	Present
	Honomichl	Absent	Winslow	Present
			Vacant	

3. General Business:

A. Approve Planning Commission Agenda.

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

All Commissioners approved by "ayes".

Roll Call:	Allenbrand	Present	Kroeger	Present
	Hemphill	Present	Krudwig	Present
	Honomichl	Absent	Vacant	
	Winslow	Present		

B. Approve minutes of the Planning Commission meetings held on September 28, 2010 and November 23, 2010. (The October 26 meeting was cancelled due to the lack of a quorum.)

Motion by Commissioner Winslow to approve the Minutes of the September 28, 2010 and November 23, 2010, commission meetings; second by Krudwig.

All Commissioners approved by "ayes".

Motion carried.

C. Disclosure of conflicts of interest: N/A. Discussion among commissioners.

D. Disclosure of outside communications regarding Commission business: N/A

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.

Darrel Zimmerman introduced his son, Barry Zimmerman.

5. Public Hearing:

A. Public hearing to consider a request to rezone property located at 9210 Kill Creek Road to the "R-A" Rural Agriculture district. Chairman Kroeger asked Planner Bohnsack to review the background on the application for the rezoning. The property

covers approximately 30 acres. The property has always been used for agricultural purposes and agri-tourism. A change in zoning will offer more opportunity for the property to continue to be economically viable. Kill Creek Farm is one of the few historical sites in the city and offers a unique niche through its proposed agri-tourism business. Planner Bohnsack concluded that the "Matters to be Considered" for the zoning change were 12 "positive" findings and one (1) "neutral" finding in regard to the consistency with the Comprehensive Plan. This property is not within the City's future sewer extension map. Staff recommends approval of the rezoning request.

Chairman Kroeger asked about the current animal uses complying with the City's existing code. Engineer Brungardt stated many of the animals on the farm are not compliant with the 'R-1' zoning; however, this property is a legal 'non-conforming' within the City. Commissioner Hemphill asked about the number of cattle allowed on acreage in the 'R-A' zoning. Discussion ensued with Engineer Brungardt and Commissioners on the number of cattle that are on the Kill Creek Farm acreage.

The applicant, Darrel Zimmerman, said on the zoning issue, he feels 'grandfathered' clauses are used by governing bodies to put something out of use they feel is not currently appropriate in new zoning areas. Cities buy up land to make parks and take the land off the tax roles and the taking away of farms is destroying the American way of life. He provided a written statement to the Commissioners which is attached hereto and incorporated herein as a part of these Minutes. The Kill Creek Farm has had a very positive relationship with the citizens in De Soto as well as bringing people into the City of De Soto to see what it has available. He also read the Mission Statement of the Kill Creek Farm.

Chairman Kroeger opened the public hearing for comment; no one appeared and the public hearing was closed.

Motion by Commissioner Winslow to approve the requested zoning change at 9210 Kill Creek Road from 'R-1' Residential Low-Density to 'R-A' Rural Agriculture zoning district; second by Allenbrand.

Roll Call:	Allenbrand	Yes	Kroeger	Yes	Vacant
	Hemphill	Yes	Krudwig	Yes	
	Honomichl	Absent	Winslow	Yes	

Motion carried.

- B. Public hearing to consider an application for a Special Use Permit for an event/meeting and agritourism uses to be located at 9210 Kill Creek Road. Planner Bohnsack stated this is a new application for a special use permit. She commented on the details contained in the staff report to Commissioners dated December 28, 2010. There will be new restrooms and running water in the new proposed barn to be constructed. The site makes a very good agri-tourism benefit to the City, as well as family-oriented events and gatherings. There are some concerns regarding where the waste treatment facility will be located. City Building Official Steve Chick has ground tested the site and provided Commissioners with his report regarding proposed waste treatment systems. Once restrooms are installed and operating, the use of the outdoor privy does not meet either State statutes or City Code. The City does not allow holding tanks; however, this matter can be resolved with the waste system design.

Planner Bohnsack discussed the items that were reviewed by the Site Plan Committee, i.e. Character/Compatibility, Utilities, Parking, Signs, Economic Benefit, Historic Benefit, Comprehensive Plan and the Term of Permit. Discussion ensued

between Commissioners and the Applicant regarding the parking area currently owned by KDOT. Engineer Brungardt pointed out the language that was in the original permit regarding the on-site parking of 35 vehicles should KDOT take away their parking area along Kill Creek Road and the site's eastern property line. Much discussion ensued regarding the future parking area if it becomes necessary.

Of the twelve "Matters to be Considered" for the Special Use Permit, nine (9) are positive and three (3) are neutral. Staff feels these matters can be sufficiently mitigated through the imposition of suitable conditions as set forth on page 5 of the Staff Report.

Planner Bohnsack discussed the conditions the City could impose upon the applicant. The use of banner signs was discussed and an option is to allow a changeable wall sign on the east wall of the barn structure. This will be a framed area no greater than 6 ft x 24 ft. The "frame" would ensure the sign would be properly attached and maintained, and when the event is over, the sign will be taken down. City Building Official Chick discussed the size needed for a sign to be easily read from the road. Commissioner Krudwig asked if any other businesses in the City have requested large banner signs on their property. Discussion continued on the permit automatically being renewed annually and whether there should be a term limit so it can be reviewed in 'x' number of years. The other side of the discussion is the 'legal non-conforming' of this use.

Chairman Kroeger discussed the conditions proposed with the applicant. Commissioner Krudwig commented regarding all the events that are held at the barn and if sales tax is collected from these for the benefit of the City.

Chairman Kroeger opened the public hearing for comment.

Mike Folks, 29200 W. 115th Street, said he is a general contractor in Johnson County and has been for 30 years. He said he is also the chairman of the Northwest Consolidated Zoning Board and he sees a lot of Special Use Permits in this area. When someone is spending several hundred thousand dollars on a project with a Special Use Permit involved, that board normally grants a long term of 30 years, and even 50 years, on some Special Use Permits. This gives the applicant verification of zoning when approaching lenders—they are reassured that the use can continue for an extended period of time.

No further comments and Chairman Kroeger closed the Public Hearing for comment.

Commissioner Hemphill and Staff discussed the comments on site lighting noted in the Site Plan Review.

Motion by Commissioner Krudwig to recommend that the application for a Special Use Permit for an agri-tourism and event services use located at 9200/9210 Kill Creek Road be approved with the following conditions: (Conditions as stated 1-4 in Staff Report, and 5) the permit shall be for a period of 50 years as long as the required conditions are being met and renewable upon the end of that term; second by Hemphill.

Discussion between Chairman Kroeger and Commissioner Winslow.

Roll Call:	Allenbrand	Yes	Kroeger	Yes	Vacant
	Hemphill	Yes	Krudwig	Yes	
	Honomichl	Absent	Winslow	Yes	

Motion carried.

6. Old Business:

- A. Discussion of various text amendments concerning open space and accessory uses such as improvement of open space tracts; accessory uses for various districts; recreational uses; grading permits; walls and retaining walls. Engineer Brungardt stated there are several open space tracts that need to be addressed to close some loopholes in current regulations, and discussed the concerns that arose on the James' property located on West 87th Street in the Cedar Ridge subdivision. Staff would like to look at 'what is open space', how can open space be used, and how to regulate open space and the accessory uses. Should permits be required for grading of sites and construction of retaining walls over four (4) feet high.

Commissioners discussed the definition of "open space" and Commissioners suggested that staff discuss the statutory language requirement and the legal definition of 'open space' as well as the suggested definitions for land divisions—lot, tract, etc., with City Attorney Reavey.

Commissioners discussed how to regulate open space. Chairman Kroeger asked staff about 'land disturbance' permits. Chairman Kroeger asked what staff has found that other communities use to define and regulate 'open space'. Commissioner Krudwig asked how strongly the City's Code is enforced. Engineer Brungardt stated it is usually reaction enforcement on a complaint basis. Commissioner Krudwig said he doesn't want to set up regulations that aren't going to be enforced, and is this really the Commission's job. Discussion that possibly a committee should work on text amendment language and then bring proposed language before the Commission.

Planner Bohnsack discussed accessory uses and the proposed language for play equipment. Some cities have parameters for play equipment as a residential accessory use such as play equipment taller than 6 ft should be set back from the property line.

The permitting of grading activities needs to be reviewed as a request from the Council because it involves adopting amendments to the building code. Engineer Brungardt commented on some grading that was done by a landowner that substantially altered his acreage.

Commissioners and staff discussed language for walls and retaining walls regulations. Staff will review the IBC code regulation language and be consistent with that. Commissioner Hemphill stated if a wall is higher than 24 inches and requires a handrail, then a permit should be required. Planner Bohnsack said high retaining walls get into an engineering requirement. Walls should not affect the existing drainage pattern. Commissioner Krudwig requested a wall cross-section and defined the triggers of the ground low-side and the high-side of the wall. The 48" dimension should trigger the permit process.

Commissioners discussed the recreational uses and the definition between active and passive recreational uses. Open space should be passive recreational uses.

The Planning Commission requested that staff refine the proposed changes to the language of the regulations and present it at the next meeting. They also requested review and comments from the City Attorney.

- B. Discussion concerning the Comprehensive Plan yearly review. Planner Bohnsack suggested a work session to review because of the need to review each goal and the wording as proposed in the staff report. Commissioner Krudwig stated he would like Commissioner Honomichl to be present for this, as well as have the seventh planning commissioner in place and present for this discussion as that person will become involved. Commissioners requested staff schedule a work session to discuss this issue and notify them.
- C. Discussion of Procedures Manual Review (TABLED).

7. New Business:

- A. Discussion of zoning for various types of group homes. Planner Bohnsack said she has received a call from a woman who wants to open a group home for young boys. In checking the City's zoning regulations she found that they need to be reviewed and revised to coordinate with the state statutes. Chairman Kroeger asked if the City could amend the NAICS Appendix in the regulations. Discussion by Commissioner Allenbrand that group homes for school aged children should also be discussed with school officials. Discussion on how many of the NAICS sub-codes are applicable to the state statute. Commissioners requested City Attorney Reavey also comment on how to address the zoning codes.

8. Staff Advisory Reports:

- A. Council comments/action on the garage sales TA and the Penny SUP amendment.
- B. Johnson County Business:
 - Conditional Use Permit application for a Buddhist Temple on 119th Street was withdrawn, revised (reduced scope) and resubmitted. The PC will address the application this month.
 - Heartland Estates Subdivision on Edgerton Road. The Preliminary Plat was approved and a drawing of the proposed design was passed around.
- C. Excerpts from The Commissioner (APA) and The Planning Commissioner's Journal. Staff would like to use these as a basis for future training sessions.

Motion by Commissioner Hemphill to adjourn at 10:10 p.m.; second by Winslow.

All Commissioners approved by "ayes".

Motion carried.

Respectfully submitted:

Lana R. McPherson, MMC, City Clerk