

**Planning Commission Meeting
September 11, 2018**

Meeting called to order: 7:02 p.m.

Board Members Present: George Teagarden, David Berglund, Charlene Sims, Ed Andersen, Richard Morrell, and Fred Kautt. **Absent:** Melanie Staton, Jo Ernst, Tate West.

Also present: Andy Mayhugh & Courtney Calkins. Appointment as Secretary of Planning Commission for Courtney requested by Andy. Motion by Dave Berglund, second by Richard Morrell. 6-0 Approved.

Pledge of Allegiance led by Fred Kautt.

Minutes were discussed. After discussion, motion by Ed Anderson to approve the minutes of the July 10th meeting. Seconded by Dave Berglund. Motion passed 6 - 0.

Dave Berglund asked the board to give Jessica Hightower, the new Economic Development Director, their vote of confidence. second Richard Morrell. 6 - 0

Findings of this hearing are scheduled to be heard by the County Commissioners on 10.1.18

Case #Z18002

(V & H Enterprises LLC) Application to re-zone 60 Acres from 1-2 Heavy Industrial to A – Agricultural in Section 27, Township 22, Range 24.

Present: Kathy of V & H. The property is no longer used for mining. There's been no quarry work since 2010. She is selling the property and the buyer would like it to be Agricultural.

Charlene Simms asked about Reclamation for the property. Kathy stated that Scott Carlson from the State of KS has been down to site. The purchaser just wants the property for hunting and it's Scott said the land has almost reclaimed itself. In another 10 years it will be completely reclaimed.

Kathy stated that her Bond is still in place, but the State is fine with no reclamation. The State cannot make final say until the property is sold. Her bond will be kept in place until the sale.

Andy Recommended approval and read the findings.

The findings are as follows:

1. The proposed change conforms to the character of the neighborhood.
2. The proposed change conforms to the Comprehensive Plan.
3. The proposed change matches the zoning nearby.
4. The change will not detrimentally affect nearby properties.
5. The proposed change will benefit the public health, safety and welfare.

6) Staff recommends approval of the application.

Motion made by Dave Berglund to approve the application. Ed Anderson seconded. All in favor 6 - 0.

Case #Z18003

(M&M) Application to re-zone 8.76 Acres from A/R Agricultural/Residential to HR Highway Retail in Section 32, Township 19, Range 19.

Mike Page of M&M is requesting a highway retail rezone. He has nothing specific planned right now. This is concerning the South half of that 10-acre property. It is currently zoned as AG Residential. It is a prime retail area.

Dave Berglund mentioned there are limited amounts of access to rural Linn County – future growth will come through that major artery. A good overview example is the Pleasanton Casey's.

Charlene Sims Stated that regarding Highway Retail Zoning there are so many things can be added without any conference with the county.

Andy would like to update the zoning regulations in 2 parts one dealing with definitions and one with wind generations. Currently they have 6 months to build on a permit. What if they sell it? Asked Charlene Sims. Andy: We need to make sure to include the ideas of what they want to build. The East side of Highway 69 is more conducive to commercial development.

Richard Morell: We didn't address pulling off the highway and seeing storage units. It's not the most pleasant thing to see. Landscaping could make it more attractive. That's something we should consider as a condition on any project for the Beauty of Linn County. Mike has a property where they built a berm and added landscaping.

Mike Page: Legally you can't sell anything on that property right now. It's an obvious place for retail sales. Dave Berglund: It needs to be developed. What we let happen in Linn County will go on for a long time.

Andy: Zoning districts are set, but the regulations were never changed. I think it is time we address those things. Dave Berglund: Charlene Sims and I have struggled with this for a long time. We need guidance; to see what other people are doing.

Andy: Miami County has AG/Trans AG which is an AG preservation subdivision provision. Tiny lots clumped together but they must retain the bulk of the property for AG use. Charlene Sims: It sounds like so much use for Green area.

6) Staff recommends approval of the application.

Motion made by Dave Berglund to approve the application. Fred Kautt seconded. All in favor 6 - 0.

Case # CUP 18007

(Schendel Ventures LLC) Application for a Conditional Use Permit to install and operate Storage Units and Boat/RV Storage in Section 31, Township 19, Range 25.

Present: Robert Schendel, and Joe Schendel of Schendel Ventures. Joe moved in April and is building a house on the hill there and will have some agricultural use on the adjoining property.

They are proposing to place the storage facility on 1.5 acres in west corner. 120x30 feet with 2 concrete pads. They are just planning to build one at a time based on demand.

They have requested the CUP to maintain Agricultural Zoning on rest of the property. Joe will be putting cattle on the property in the next few weeks.

They intend to be good neighbors to the folks around them. They feel they can offer higher security with the manager living on the property. They are choosing neutral colors and low-profile roofs and low level down pointing lights. Robert believes they will have a low level of traffic because it's storage.

They are proposing modest signage that would follow ordinances set by the county. It is going to be fenced and the gate is moving north 140 feet into the property. Patrons must turn off the roadway to get to the keypad. The house is 480 feet from the storage area and part of the reason for the name Security Storage. The first unit is for 24 proposed spaces in a variety of sizes depending on demand. They will have to level the ground. Runoff hits the gravel surface roadway and runs to the ditch by the highway. No sanitation or electric will be run to the units.

Present: Delores Stainbrook, spoke against the CUP. She is the neighbor to the West. Her farm is mostly cattle ranch with a stable and a rental house. Crop across the road. There are 3 storage units in Linn Valley and one across the highway. This upsets her plans with cattle. There are also two more storage units in LaCygne. Delores believes storage units create large amounts of traffic, especially when they hold garage sales. Patrick Foreman, president of Labette County Bank, told her that close to the restaurant would be fine.

Present: Karen Martin, daughter of Delores. The lighting is a concern for renters trying to sleep at night. She also asked about the Schendel's having cattle on the property and how that would work with the storage units. Robert Schendel stated they would fence off 1.5 acres for storage units. The Schendel's are starting with 2 calves and a few sheep.

Stainbrook & Martin are concerned about the hours of operation and the noise. Is it 24 hours? Schendel said they would be open to adopting a time restriction for the property. Delores stated they feel like the farmers are getting crowded out. Land is being taken away from farmers. Brad Lund has award winning cattle and she would hate to lose her tenant because his cattle are disturbed in some way.

Dave Berglund asked if Delores sold them the property and she said no.

Schendel's bought property in January 2018. The LLC formed in December.

Charlene Sims Read opposition letters from Steve Koperski, Delores Stainbrook, Janet Burch and Richard Tynes.

Dave Berglund mentioned that the comprehensive plan for Linn County was taken very seriously. There are a limited number of accesses off that limited access highway. If they felt, there was future growth in Linn County it would be from the traffic coming from that highway. It is zoned planned commercial. They almost had a whole bunch of building on the other side. He stated that in his opinion those are not front-line buildings. This is one of 4 accesses off that highway. Charlene Sims asked if they discussed making that highway retail in the past. The opposite side is already retail and additional properties are being rezoned on that side.

Andy stated that this application doesn't change the zoning of the property. The only thing it will change is the zoning of the 1.5-acre section. Dave Berglund questioned setting a time limit. Andy was hesitant to set a time limit that would force them to take it out everything they build. Dave Berglund –

didn't think we had ever set a time limit on zoning that involved construction. Charlene Sims asked if they had ever denied a renewal request. Dave Berglund didn't believe so, that they had simply made corrections to solve problems at the time of renewal.

Andy stated that if the property is developed to the maximum as proposed he doesn't want lights on traffic areas or to intrude on adjoining properties. Dave Berglund stated the fence line is way back and a major county road. Andy stated that he firmly believed with this type of use on a property, people don't come back and check their units every day.

Ed Anderson stated in agreeance that it's usually a one-time parking for the winter. Dave Berglund thinks this will open the door to more growth in Linn County.

Andy mentioned that just to the north is a radical vertical and that he feels it will require massive excavation to accomplish their goal and they may have some soil erosion. He suggested that SWP plan could be submitted. Dave Berglund stated that he would like to see how they are going to control that. They may have to put a place to contain runoff, so silt can settle, like waddles. Dave felt that thinks we need to look at.

Charlene Sims suggested putting it into the conditions. George Teagarden asked where the run off goes now? Schendel responded, just in the field because it's not that severe.

Andy asked if they could they build a terrace? Dave Berglund stated that's not his area of expertise, but it needs to be address.

Andy stated that he would be happy to work with the applicant and the state of KS to get an acceptable provision. Dave Berglund expressed his concern about voting for something and finding out the recommendations were ignored after the fact. He would like to see a Condition that says Storm Water Protection Plan must be in place.

Richard Morrell would like more information on findings 1 & 2. Andy provided the clarification that the underlying zoning is still AG. The CUP just allows special use as proposed on the property. It is in the guidelines of the comprehensive plan for commercial development.

Dave Berglund spoke about the two storage units on Jingo Rd. Were they also granted CUP? Andy stated he would have to look it up.

Ed Anderson thinks it was rezoned and given a CUP, at least the one outside of city limits.

Dave Berglund wants them all to be the same in the future. We need to ask how was it done for these others? He doesn't want to do this incorrectly. He wants to know if Rick Hurts unit is in the city or not. Andy will check into it and get back with Dave.

Andy recommends approval of the application.

Charlene Sims – In addition to the Recommended Conditions (in the agenda) the Applicant must submit storm water pollution (SWP) control plan prior to issuance of building permit.

Delores Stainbrook: That farm is not made for road crops. If I lose my tenants due to construction, it would not be good.

Robert Schendel: HWY department requires a lot of space – it's going to be clustered as near to the highway as possible. It was always their intention to have a terrace to access the units. Robert believes there are other farms in the county that have buildings built without too much upset being caused to surrounding neighbors.

Joe Schendel: Just got his AG degree and intends to be a farmer and use the units to supplement the income and bring AG jobs to the community. He requested that the commission accept the application.

The findings are as follows:

1. The proposed use conforms to the Linn County Comprehensive Plan.
2. The application does not require a change in Zoning from A – Agricultural and this zoning matches other zoning on this side of US 69.
3. Staff does not believe the approval of this CUP will negatively affect nearby property to any great extent.
4. Staff recommends approval of the application.
5. The subject property has historically been vacant for a long time as zoned.

Recommended Conditions:

1. The use shall be operated in conformance with submitted plans and documents.
2. All roads and on-site parking areas shall be covered with an all-weather surface.
3. Lighting shall not interfere with traffic or intrude on adjoining properties **or homes**.
4. Signage shall meet the requirements of the Linn County Sign Regulations.
5. **Applicant must submit storm water pollution (SWP) control plan prior to issuance of building permit.**

Motion made by Ed Anderson to approve the application with findings, a SWP and that the lighting shoots away from the house to the West. Dave Berglund seconded. All in favor 5-1. (George Teagarden opposed)

Charlene Sims Chairman signed & Courtney Calkins attested to the approval of Case #Z18002, Case #Z18003, Case # CUP 18007.

Old Business:

Discussion - Proposed Amendments to Zoning Regulation

Andy has definitions added in "Red" in Article 2 Section 2.01.

WEC Definitions Page 22.

Section C – Height and must show that they don't have space on their own property for the tower.
Page 61.

Page 81 Radio, Cellular, TV Broadcasting towers 80 or more feet in height, subject to: setbacks 50 ft, lighting, no strobes, evidence no available space on existing approved facilities.

Discussed KCPL Towers.

Adopted County Regulations on WEC and picked out some things to put in there. Consulted with our counselor. Better to attach an Appendix that addresses Wind Farms because Andy has looked at several counties' regulations. It looks like they have all copied each other's regulations.

Newest windfarm near us has adopted this, it's just north of Moran. Provided CWEP Criteria and conditions for Special Use Applications Allen County. Compare it to what we have had previously. The wording is almost identical. Dislikes on Page 3 under general introduction. Development plan written in a style that can be understood with back up. Has Setbacks included. Cultural Assessments, Topographical maps requirements. Wildlife and wetlands. Avian impacts birds/bats.

Page 8 – Visual impact. Reasonable measures such as planting trees. Primarily ground equipment or substations, not to hide it.

If it's approved, road use agreement and maintenance and decommissioning. Because most of the board will not be here 30 years from now when it comes time to tear it down. Discussed the Ferris wheel style.

Topeka has a wind turban, a small one next to the "Welcome To Topeka" sign.

Doug Bartlett said they won't train their fire fighters for high angle rescues. Dave said it's their problem, just like coal mines.

Ed Anderson discussed a farmer's story who lives near wind turbines gets more rain and turbines keep the hail away too.

Charlene Sims doesn't like Bed & Breakfast section. Andy was copying from other counties. Issues with food. We need to look at Health Department regulations on this.

Adult Entertainment business needs to be listed and defined.

Andy asks do you all want another month to go over and come to some conclusions? Charlene Sims answered yes, to have a conclusion in October.

Andy asked all commissioners to call him with changes that he can wrap in. We must have a Public Hearing to amend the Zoning Regulations and then present to the commissioners, so we need to get these finalized, hopefully in October.

Other discussion: We need to bring some food/drinks for the next meeting.