

Minutes of the Linn County Planning Commission and Board of Zoning Appeals

August 15, 2023

Richard Morrell called meeting to order at 7:00 PM

Pledge of Allegiance

Present, Richard Morrell (Chairman), Paul Porter (Vice-Chairman), Mike White, Elizabeth Staton, Daniel Earnest, David Fisher, Charlene Sims, Ed Anderson

Richard talks about the Planning and Zoning Commission and introduces the new members. Daniel Earnest and David Fisher. Richard says he Really enjoyed this this committee because of this Commission testing Commission because we're diverse group when we're young and we're old we're working with a lot of different areas and that we have a lot of different interests and I think that diversity really helps us along and makes us strong Commission and it's we're doing that in this scenario being part of that.

They accepted the minutes from the last meeting. Mike makes a motion to approve the minutes. Elizabeth seconds the motion. Motion passes 8-0

Rich calls case SD23-01 Boley Plat

Christopher Boley came to explain why he wants to re-plat. It is to make another 15-acre lot to sell to his daughter and son-in-law.

Richard asked Darin for staff report.

Staff Report
Case# SD 23-01

Applicant:	Christopher Boley 24505 Query Rd. LaCygne, Ks. 66040
Requested Action:	Approval of a RE-Plat of BD Ranch 11 to add A 15ac parcel.and adjust a parcel line back. It will create 3 parcels as shown on the Final Plat Map.
Legal:	BD RANCH, S21, T19, R24, Lot A, ACRES 35.5, LOT A BD RANCH SECTION 21 TOWNSHIP 19 RANGE 24
Location:	24505 Query RD. LaCynge, Ks. 66040
Background:	This has been Platted before, into a 35.5-acre tract of land and a 10.01 tract of land. The

Request now is to split the 35.5-acre tract into a 15 acre and a 18.02 acre and add 2 acres to the 10.01 tract. With the original lot split it required the properties to be platted. With the request now requires the properties to be RE-Platted for the intended split. The added tract is for the purpose of Mr. Boley's daughter to build a house.

Staff Findings:

- 1) The proposed use of the property is agricultural in nature and conforms to the Neighborhood.
- 2) There are other similar tracts of land near the proposed location.
- 3) The proposed change will not detrimentally affect nearby properties.
- 4) Property will not adversely impact existing infrastructure.
- 5) Proposed use conforms to the Comprehensive Plan.

Staff recommends approval of the RE-Plat of the BD Ranch 11.

Richard asks if the gallery had any comments. Then he asked if anyone had a motion. Daniel made a motion to accept the recommendation. Charlene seconded the motion. Motion passes 8-0

Rich calls for case Z23-05 Hays

Mark Hays came forward and explained he wants to do a lot split, but the one parcel has to change zoning.

Rich asks Darin for staff report.

Staff Report

Case #: Z23-05

Applicant:

Mark Hays
24830 County Rd. 1077
Parker, Ks. 66072

Requested Action:

Approval of Re-zoning from the A-Agricultural Zone
To the CS/Country Side Zone for lot-split
purposes.

Legal:

S22 , T19 , R22 , ACRES 25.4 , S2 N2 NE4
LYG E OF CREEK LESS ROW

Location:

commonly addressed as: 24830 County Rd. 1077

Analysis:

Applicant has been approved for a lot split of 4 Acres to sale or lease. Under current zoning (A-Agricultural) the parcel is below the minimum (10 Acres) size and requires re-zoning as CS/Country Side

Staff recommendation and finding:

- 1) The proposed zoning change conforms to the character of the neighborhood by providing the combined usage.
- 2) Neighboring A – Agricultural zoned properties and are of larger size.
- 3) Property is suitable for permitted uses of the proposed CS/Country Side zoning and will not negatively affect nearby properties.
- 4) The proposal for re-zoning of the land creates no change or effect of surrounding properties and not create any additional infrastructure needs.
- 5) The proposed change conforms to the Comprehensive Plan by allowing more land to be kept in a larger agricultural parcel and not changed to a residential designation.

The standards that should apply are listed in Article 20 and with proper finding as required in Golden vs. the City of Overland Park. Staff recommends approval of the application.

Rich asks for question for Darin. Ed asked Darin if a new driveway had to be put in. Yes, a new driveway has to be installed, replied Darin.

Rich asked if there was a motion. Charlene makes a motion to approve. Mike seconds the motion. Passes 8-0

Richard calls CUP23-04 Tillman

Patrick Erwin comes forward and speaks. He explains the purpose of the application is for a 405 ft guyed tower in a 75x75 ft compound. Explains that it does meet the County requirements for the setbacks. The first thing Mr. Erwin does when tasked to build a new tower is to check if there is any towers in the area that would meet the needs of his client. The closest one is American Tower which is about 1 mile away. He said that Verizon and American Tower could not reach an agreement. Verizon said that they were not reasonable to work with. Other tracks of land would not work in the area because with a 405 ft tower they need a bigger parcel of land so it could meet the setback requirements. They found one at the location described in the staff report. The FAA has approved this location. Patrick talked about the road Perry Lane. Perry Lane is not a county-maintained road. The McVicker's built that road to have access to their home that they built. Patrick said that he contacted McVicker's and worked out an agreement with them to maintain the road and repairs. Patrick said that he would suggest a condition be put with the CUP that the tower company will maintain and repair the road. They will video the road before and after to show they maintained it too as good if not better. Mike asked the McVicker's if this was the only access to their house. Mr. McVicker said yes, it is. Patrick explained the first thing they do is build the road so they can get their heavy equipment into the construction site. Mike asked where the county road ends. Darin explained that location and who maintains what. Daniel asked if the road agreement was in writing. Mr. McVicker's said that he wanted it on record. Charlene asked if the tower will have contact information posted. Patrick answered yes, there will be contact information onsite for emergency information. David asked about lighting. Patrick explained there will be 4 locations of lighting

installed on it. David said that the FAA only requires 2 elevations of lighting. Patrick said if that is the case, they will only put lights in 2 elevations. Charlene asked how soon they would get out to make emergency calls, like for lighting. Patrick said maybe 5 to 7 days, depending on parts and tower climbers. Mike asked about on demand lighting. Patrick said that it was not cost prohibitive. David said that the cost is coming down on the lighting. David asked if Verizon did a search ring on the location. Patrick said yes, they did. David asked for that to be shared with Darin. Patrick explained they do a 1-mile ring around the tower location. David asked what will happen to the old American Tower. Charlene asked what kind of conditions is usually put on towers in other counties. Patrick said that usually if it is not used for a year it has to be tore down. Daniel asked legally, what is the tower companies' responsibility of that road. Patrick answered nothing by law but wants to have a good relationship with the property owners in the area. Charlene said that we can make that a condition as part of the CUP. Mike asked does the agreement say how the road will be maintained. Rich said that if there is a video of the road before and agreed to make it as good if not better there should be no question of how well it was maintained.

Rich asked For the Staff Report

Staff Report Case # CUP23-04

Date Prepared:	August 4 th , 2023
Hearing Date:	August 15 th , 2022
Applicant:	Skyward Land Services Inc. c/o: Patrick Erwin PO Box 25783 Overland Park, Ks. 66225 913-626-4440
Requested Action:	Consideration of a Conditional Use Permit for the construction and operation of a 405' guyed tower, and 75x75 foot lease area.
Property Owner:	Loma Land and Cattle LTD Attn: Robert Thayer 8001 College Blvd. Overland Park, Ks. 66210
Location:	Generally addressed as: Scott Road LaCygne, Kansas 66040 (PID#: 094-17-0-00-00-007.000) Sec 17, Twn 20, Rng 24

Legal: A 75 Foot X 75 Foot Compound located S17 , T20 , R24
ACRES 38.9 , NE4 OF SW4 EX E 30'

Current Zoning: A - Agricultural

Notice: Notice was properly posted in the Official County Newspaper on July 26th, 2022. In addition, notice was sent to owners of all properties within 1000' Pursuant to State Law and the Linn County Zoning Regulation.

Property Uses Nearby: Nearby properties are A/Agricultural

Affected Zoning Articles: Article 5-3 Zoning Regulations
Article 16 16-201

Comp Plan Segments of Note: Planning Framework Overview (Page 32) and Map (Page 33) of Comp Plan.

Acceptable Land Uses:

- * Residential,
- * Agriculture,
- * Commercial uses,
- * Urban Mix,
- * Mixture of Agriculture and Agri-business,
- * Public/Institutional
- * Parks/Recreation

Zoning and Uses Nearby: Zoning - Agricultural, Agricultural/Residential, Residential, & Heavy Industrial

Comments/Questions received:

Analysis:

Most adjoining properties is Agricultural. The subject property is currently zoned as Agricultural and used for that purpose. Proposed use could be defined as a service utility or commercial use of the current plan and allows for them to be placed in the rural area of the county, after careful review of potential impacts on existing road and infrastructure. The proposed tower would sit within a 75-foot by 75-foot leased area and is a guyed tower. It would therefore take little land out of agricultural use. The applicant states that this is in cooperation with multiple carriers. The applicant can meet the setback requirements of equal distance from the property line as it is in height. All necessary notification to

surrounding landowners has been properly made by United States Postal Service and Publication of Notice of Hearing in the official county newspaper.

Staff Finds:

1. The use does conform with the **character of the neighborhood** as most nearby properties are Agriculture and Agriculture with residences, Industrial.
2. The **zoning of nearby properties** is Agricultural
3. The property is **suitable for proposed use.**
4. The proposed use does not appear to **detrimentally affect nearby properties.** Spoke with Tillman about the private road. They have worked out with the landowner that they will repair the private road leading to the properties.
5. Property will remain as **currently zoned.**
6. The installation of this tower will enhance cellular service in the area so there is a gain to the **public health, safety, and welfare.**
7. The requested CUP conforms to the **Linn County Comp Plan.**
8. At this time **Staff recommend** approval of this CUP,. With proper finding as required in Golden vs. the City of Overland Park.

Micheal McVicker asked how the guides for the tower will lay. From the road it will be 0, 90, 180. Mr. McVicker asked how far the setback is. Elizabeth said it's 250 ft from the road the closest guyed. Rich asked if there was any more discussion from the gallery. Mike said he thinks the stuff should be submitted to Darin before they approve the permit. Charlene said she doesn't think it should be. Her suggestion is that Darin won't issue a building permit until everything is submitted to him. Mr. McVicker said he was ok with that. Since the building of the tower can be controlled until the road agreement is signed and submitted to Darin. Rich asked if there was a motion to accept the CUP. Conditions: Meet the FAA requirements. Aeronautical study meets 2023-ACE-2203-OE Meet the signed road agreement and Maintenance. The road is maintained to the entrance of the tower. 1 year to have constructed. Emergency contacts information. Rich asked for a motion to pass with all the conditions set forth. Rich asked for a motion. Charlene makes a motion with the findings of the staff report and the condition listed above. Passes 7-1. Paul disagrees that it is not detrimental to the neighboring properties. That it is not needed when there is one in the area already built. Darin said he will look at the condition on the American Tower.

Richard adjourns the meeting.

Chairman



Secretary

