

EXCERPT MINUTES OF THE AUGUST 18, 2016 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: DER2016-00005 - Amendments to certain sections of the Wichita-Sedgwick County Unified Zoning Code (UZC) to permit event centers, churches, farmer's markets, community assembly and bed and breakfast uses by right subject to development standards in certain zoning districts. Minor changes dealing with punctuation and codification are also proposed.

BACKGROUND: Some time ago staff was approached by two county residents who have agricultural facilities that were not being fully utilized due to limitations contained in the current Wichita-Sedgwick County Unified Zoning Code (UZC). Staff has worked to develop a series of proposed amendments that can assist farm producers to better utilize farm properties and facilities. The proposed amendments are attached in the form of a delineated and annotated resolution. Words that are underlined are proposed additions to the code. Lined through letters or words are proposed to be deleted or modified. Italicized words are annotations providing a brief description of what the proposed amendment accomplishes. The last two pages of the delineated and annotated resolution contains a section by section summary of the proposed amendments.

In general, the proposed amendments:

1. Clarify what is an agricultural use.
2. Establish a new use, "event center in the county"
3. Establish a new use, "farmer's market in the county"
4. Permits a "church or place of worship," "community assembly," "bed and breakfast inn," "event center in the county" and "farmer's market in the county" as uses by right in the RR Rural Residential (RR) district provided they meet 12 supplemental use standards.
5. Permits "event center in the county" and "farmer's market in the county" as uses by right in the LC Limited Commercial, GC General Commercial, LI Limited Industrial and GI General Industrial districts.
6. In the RR district only, an event center in the county, church or place of worship, community assembly or farmer's market in the county with more than 20 acres is permitted by right provided, in part, the site or use complies with building, fire, sanitation, life-safety and other applicable codes, provides minimum parking, addresses drainage, building setback of 100 feet from property lines and submits a site plan that is approved.
7. "Church or place of worship," "community assembly," "bed and breakfast inn," "event center in the county" and "farmer's market in the county" that do not or cannot comply with the supplemental development standards may be permitted with conditional use approval.

CONFORMANCE TO PLANS/POLICIES: Strategy G of the Arts, Culture and Recreation section of the Community Investments Plan recommends that staff "Identify opportunity areas and regulatory adjustments necessary to support agritourism in the unincorporated areas of Sedgwick County."

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended that the request

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The RR district permits agricultural uses by right and a few other uses compatible with agricultural activities or uses that can be buffered from agricultural uses by large lot sizes.
2. The suitability of the subject property for the uses to which it has been restricted: Most of the event center uses requested in the County have been located in the RR district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed supplemental use standards should minimize detrimental impacts to nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The proposed amendments would allow rural residents, farmers and other agricultural producers a wider range of by right uses and provide a greater choice for such activities within the area's marketplace. Denial of the proposed amendments would maintain the current status quo of requiring zoning approval for the identified uses.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Strategy G of the Arts, Culture and Recreation section of the Community Investments Plan recommends that staff "Identify opportunity areas and regulatory adjustments necessary to support agritourism in the unincorporated areas of Sedgwick County."
6. Impact of the proposed development on community facilities: The proposed amendments could lead to increased traffic on unpaved roads and to increased calls for code or law enforcement.

DALE MILLER, PLANNING DIRECTOR, presented the Staff Report.

CHAIR NEUGENT announced that because the Commission is down to eight people the amendment will require a unanimous vote to pass.

He referred to the hand out resolution and said it was a revised, streamlined version of the completely annotated version of the resolution that was sent out with the agenda packets. He said this change would make an event center in the County a use "by right" and subject to the thirteen development standards listed in the proposed amendment. He briefly reviewed some of those standards including minimum lot size, minimum setbacks, parking provisions, drainage, submission of a site plan (for enforcement staff to refer to) and compliance with building and Fire Codes. He said they have also moved churches, place of worship and community assembly, Bed & Breakfast, event center in the County and farmer's markets in the County as uses "by right" in the RR Rural Residential Zoning District.

WARREN asked about parking and whether a grass field can be designated as parking.

DIRECTOR MILLER grass is a permissible surface as long as it is not used more than a certain interval. In addition he said crushed gravel or rock is also permissible.

RICHARDSON commented the he believes he read that the parking surface is based on how often an event occurs. He said some require gravel and some allow grass.

KNEBEL clarified that grass parking is allowed for one event per month lasting no longer than three days per event.

DAN STOCKEMER, OWNER, PRAIRIE HILL VINEYARD, 21421 WEST 37TH STREET NORTH, COLWICH, KANSAS said his farm has been in his family since 1907. He thanked the Planning Commission for bringing this amendment for agritourism by right in the Rural Residential designation to the Board of County Commissioners. He said allowing the development of agritourism will create economic development benefits for the County including a lot of new jobs and activities for residents. He said their business is approached often to host weddings and bridal showers as well as other activities at their facility. He said they would also like to open a pumpkin patch.

STOCKEMER said they will comply with the standards listed on pages 25 and 26 and do not want to impede this proposal; however, he said he would like to comment on some of the requirements. He said their primary concern was the provision of providing gravel parking if more than one event per month is held. He said no one has ever gotten stuck in his pasture and he really doesn't want to cover a beautiful pasture with gravel. He said personally he does not think it is necessary. He mentioned the provision for a parking study a cover and asked if that could help determine if gravel was necessary if the grass parking was holding up. He also said they would like to have 4-5 events per month. He said he also did not think the reporting requirement was necessary and that they should not have to report to the County what they are doing. He asked if they are in compliance, why is that even necessary and wanted to know what the purpose behind that requirement was. He concluded by once again thanking the Commission.

DIRECTOR MILLER explained that if the provision for one outdoor event per month was eliminated, then the reporting requirement would also be eliminated.

STOCKEMER asked what about the gravel parking requirement.

DIRECTOR MILLER commented that if you have a paved section line road and the parking is unpaved, event goers will be tracking mud onto road and County Engineers don't like that. He commented that this proposal was just a starting point for further discussion.

TODD asked Mr. Stockemer to offer his amendments to the proposal.

STOCKEMER suggested the following: 1) allow five or more events per weekend; and 2) remove the requirement to report to the County.

DIRECTOR MILLER commented that if the Commission does not have an issue with the number of events that is fine, he was just trying to be conservative as a starting point for discussion.

WARREN commented that grass can be an acceptable surface for parking. He asked about enacting a stiff penalty for dumping mud on the highway.

STOCKEMER referenced the parking study referred to in the proposal and said as long as they have a sturdy subsurface that will not create mud, grass parking should be allowed.

DIRECTOR MILLER said the parking study references standards for an event center such as the one space per four occupant's requirement. However, he said they wanted to be flexible and allow facility operators to submit a statement as to how they are meeting the minimum parking requirements. He said there may be a way to expand the parking study to include evaluation of grass parking areas.

STOCKEMER suggested that the County be allowed to do a parking study.

DIRECTOR MILLER explained the way that would work is the facility owner would do the parking study and submit it to County Engineering for review and approval.

WARREN said that still doesn't take care of the facility manager who allows mud to be tracked onto the section line road.

RICHARDSON suggested considering requiring a gravel driveway of a specific length which would probably eliminate most of the mud before event participants made it to the paved road. He also asked about handicapped parking.

DIRECTOR MILLER reported that all handicapped spaces are required to be paved.

GREENE commented that construction sites have minimum requirements for the length of gravel driveways. He asked about adding that as a standard.

DIRECTOR MILLER said he would talk with Public Works.

KIMBERLY STROOPE, 25501 WEST 63rd STREET, VIOLA, KANSAS RUSTIC TIMBERS she said she loves what the Commission is doing. She said they have restrictions because of the PUD they operate under, and asked if the Commission would make some concessions that would release some of those requirements.

WARREN asked if this proposal is approved, what would be the process to amend the Rustic Timbers PUD.

DIRECTOR MILLER explained because Rustic Timbers already has a PUD approved by the Board of County Commissioners this proposal would not remove any restrictions. He said as a courtesy the Planning Commission could direct staff to initiate a review of the PUD.

WARREN said the Planning Commission could approve any of those changes.

DIRECTOR MILLER said the staff can take the request for review now and process a review once the proposal being discussed has been finalized.

STROOPE briefly reviewed limitations on the number of events, times and number of people on site. She added that they are not required to report to the County; however, they do provide a “calendar of events” to Code Enforcement.

RICHARDSON asked about the limitation on the number of events.

DIRECTOR MILLER said staff can revise the proposal to eliminate any reference to number of events and the reporting requirement; add that parking surfaces may be grass; and require a gravel driveway (of whatever length depending on what Engineering suggests).

DAILEY said grass parking depends on the conditions of the field you are parking in. He said he doesn’t see the need for everyone to have that provision. He asked that staff work out a parking plan.

DIRECTOR MILLER said staff can revise the proposed language and bring it back to the Planning Commission or if the Commission is comfortable, staff can tweak the proposal and send it to the County Commission.

PATRICIA PARKER, ASSISTANT COUNTY COUNCELOR, said she would prefer that staff prepare the changes and bring the item back to the Planning Commission for final approval.

DAILEY said the Planning Commission doesn’t meet again until September 29 and he would like to see the item forwarded to the County Commission as soon as possible.

PARKER said as long as the Commission is specific about the changes in the motion, staff can proceed.

MOTION: To approve subject to staff recommendation and the following changes: unlimited number of events; grass parking; gravel drive (length of which to be determined by Engineering) and no reporting requirement.

TODD moved, **DOOL** seconded the motion.

DOOL asked that Planning Commissioners be e-mailed the revised proposal.

FOSTER said he had quite a few questions. He specifically mentioned “road side selling” and asked about safety and other issues associated with that. He specifically mentioned people backing out onto the roadway.

DIRECTOR MILLER said they will be subject to the same 12 development standards listed on page 19 of the proposal.

FOSTER said the way he is reading the proposal, agriculture is completely separate from event center. He said a “Farmer’s Market” is not the same as road side selling of produce.

DIRECTOR MILLER said currently the County does not have a business license for road side produce stands. He said if it was grown on the site, you can sell it from the road side.

FOSTER asked about any requirement for insurance for safety of the public and if that was a civil matter. He also asked about definition of the term interpretive facilities.

DIRECTOR MILLER said insurance would be a civil matter. He said if someone wanted to build a facility to show people for example, how to raise chickens, they could do that. He added that most of the language for the proposal was taken from a State brochure regarding agritourism.

FOSTER asked about non-commercial camping and if people could just set up and camp for the whole summer. He also asked about any limitations on bon fires and camp fires.

DIRECTOR MILLER said non-commercial camping was intended to address participants staying overnight as part of the event. He said they could change the language to read “building and/or event setbacks or activities at least 100 feet from property lines.”

FOSTER asked if there was any limit on the number of people permitted for community assembly.

DIRECTOR MILLER said there was no limitation on the number of people, the real limitation is the parking standard and how many parking spaces you have available.

FOSTER clarified so if someone has less than 20 acres they still have to request a Conditional Use permit. He asked what the standards were for that.

DIRECTOR MILLER said this proposal does not include conditions for anything less than 20 acres.

FOSTER asked what number of events it takes to make a facility economically viable.

STOCKEMER said it depends on how many people you employ. He said he needs to do more than \$2,000.00 a month if he is going to employ people. He said small weddings are their current focus; however, they would like to expand that with a pumpkin patch. He said his goal is \$50,000.00 the first year and grow it from there. He said down the road they would like to be able to do an enclosed vegetable facility to produce organic and locally grown produce. He said there are potentially a broad range of activities including arts shows and other things. He said he understands Commissioner Foster’s concerns but they want to make this successful as well.

FOSTER said he was not comfortable with an unlimited number of events.

STOCKEMER asked how he classifies an event. He said you can easily do two events per weekend.

FOSTER asked about establishing a yearly number like 100 events per year.

STROOPE briefly commented that they usually hold one wedding per weekend in June but not every weekend in July, August, September or October. She said a rehearsal dinner is considered another event. She said 30 weddings a year is a good number for them.

DIRECTOR MILLER commented that if there is no reporting requirement on events, the County has no way to enforce that. He also mentioned that if it is an indoor event, the Fire Code will establish how many people can be in a building,

FOSTER asked what staff found about reporting in their research for the proposal.

DIRECTOR MILLER commented that neither Riley County nor Douglas County had reporting requirements. He said he doesn't remember if they had a limitation on number of events or size of buildings but the size of events was limited by parking availability.

WARREN said he liked the idea of limiting it to 100 events per year, and suggested it could be monitored that the County be given access to an event log kept by facility operators.

TODD said he would be willing to change the motion. He said every business he knows of complaints about regulatory problems. He said motion will eliminate a lot of regulations. He said he is interested in seeing something that does not have a lot of restrictions, but opens up free trade in the County.

AMENDED MOTION: To approve subject to staff recommendation and the following changes: 100 events per year; grass parking; gravel drive (length of which to be determined by Engineering) and no reporting requirement, but that a log of events be kept and produced as requested.

TODD moved, seconded by **DOOL**, and it carried (8-0).