

BUTLER COUNTY PLANNING COMMISSION

Rescheduled Meeting
February 12th, 2019
Butler County Courthouse-4th Floor
205 W. Central
El Dorado, Kansas 67042

MINUTES

The rescheduled meeting of the Butler County Planning Commission began at 7:00 p.m., on Tuesday, February 12th, 2019 on the 4th Floor of the Butler County Courthouse located at 205 W. Central in El Dorado, Kansas.

Members Present: Kermit Frey, David Greene Jr., Kristie Sullivan, Jeremy Sundgren and Jim Ralston

Members Absent: Andy Jones, Jeff Varner and Debbie Logsdon

Guests: Angela Tarter, Roger Cutsinger, Amy Staples, Steven Coltrane, Dana Coltrane, Dameron Shore, Glen Shore, Bill Morris, Harris Butler

The meeting was called to order and a quorum was declared

Approval of the February 12th, 2019 Planning Commission Agenda

Motion: David Greene Jr.

Second: Jim Ralston

Approved

Approval of the January 8th, 2018 Planning Commission Minutes

Motion: David Greene Jr.

Second: Kristie Sullivan

Approved

Old Business: None

New Business:

RZ 19-01

Request for a Zoning Change from AG 40 to Residential Estates (RE)

Applicant/Owner: Glen F. & Arla Dell Shore

Agent: Roger Cutsinger, Savoy Company P.A.

Location: SW 50th Street and SW Indianola Rd., Augusta KS 67010

Discussion: Staff recommends approval

Staff: This is a request to rezone 157 +/- acres from AG 40 to Residential Estates (RE) zoning at 13276 SW 50th St. Benton, KS 67017. This will allow for a 10 acre tract with the residence that is currently there to be split and sell the remaining 147 +/- acres. The surrounding area is a mix

of rural residential and AG 40. The proposed change may or may not be detrimental to the area. There are no changes or changing conditions in the area; this request arises merely by the applicant's desire to rezone. There is an existing residence on the property that will be included in the 10 acre tract. The residential estate classification would allow for more development than there would be allowed in an AG 40 zoning classification. The property has been used for AG purposes as well as contains 1 residential structure. There is rural water on the property and a septic system is currently in place to service the existing residence. SW 50 and SW Indianola Road are both gravel township roads. Electricity is provided by either Butler Rural or Westar Energy. The property is located within the urban growth area of Butler County.

Roger Cutsinger: they had a tenant on the property there and he is currently in the process of buying that property which is the main reason for making the request.

No further questions or comments were made

Motion: Jim Ralston

Second: Kristie Sullivan

Action: Approved 4-0

To be heard before the BOCC on February 26th, 2018 @ 9:00am

CU 19-02

Request for the placement of an AT&T Telecommunications Tower

Applicant/Owner: Ann Staples - ATT

Agent: N/A

Location: 4819 SW Santa Fe Lake Rd, Augusta KS 67010

Discussion: Staff recommends approval

Staff: This is a request to place a cell phone tower on the applicant's property. The property has rural residential zoning classification. Ms. Staple is working with AT&T and Network Real Estate LLC and they are proposing to erect a 180 foot monopole telecommunications tower inside an 80x80 fence compound with the placement of communications equipment. The proposed Wireless Infrastructure is critical to ensure that all citizens have true access to broadband and other advanced technology and information which ultimately have economic benefits to the area. If the Tower is approved a request for a Variance from the 160' height restriction, for the additional 20', will be submitted for approval as well.

The Planning Commission may recommend approval of a Conditional Use and the Board of County Commissioners may approve such Conditional Use using the following factors as guidelines:

1. Whether approval of the Conditional Use would be consistent with the intent and purpose of these regulations:

The property is zoned Rural Residential (RR). The intent and purpose of the zoning regulations as they apply to RR zoning classification is to allow for development in rural areas in close proximity to cities and within the Urban Growth Area (UGA). It is suitable in rural locations inside the UGA where adequate public roads and public serves are available.

It is not necessarily whether the proposed use is consistent with the intent and purpose of the zoning regulations, but rather, whether the proposed use is appropriate for the area in which it is located.

In this instance, staff feels the use proposed may not necessarily be consistent with the intent and purpose of the regulations but since the project is located on a paved County maintained road, will create a minimal increase in traffic and meets the 230' Fall Area it may not be a detriment to the area. The property is located inside the Urban Growth Area of the County.

2. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood:

Based upon the type of use proposed it could be compatible with the current use in the surrounding area if operated in the manner proposed by the applicant, and if operated in accordance with any other conditions that might be placed upon it, State of KS requirements and Federal requirements, its impact upon the surrounding properties would be minimal. However, directly across the road to the south is a private air strip utilized by Mr. Harris Butler, III owner of the property. The proposed Tower would be placed directly north of the Strip and anywhere from just over 1,000' up to 1,700' away based upon takeoff and/or landing.

3. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided:

As mentioned the property is located in an RR area and the road serving the area, is a paved County maintained road. There will be minimal traffic to and from the site, after the construction is completed, and it should not impact the neighbors accessing their property.

4. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected:

There are no changed or changing conditions in the area. The applicant is merely proposing to use the site for the placement of a Telecommunication Tower to provide accessibility to Broadband and enhanced technology and information to any and all users in the area.

5. The length of time the subject property has remained vacant or undeveloped as zoned; (the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped):

The property has had two residential structures on site for many years now and it is just the wishes of the owners to provide a place for the placement of the Tower.

6. Whether the applicant's property is suitable for the proposed use:

It is felt the property is suitable for the proposed use. The nature of the use of the land will not change significantly as there will be minimal traffic to the site and virtually no increase in outdoor activity that would impact the majority of the adjacent properties. Again it must be noted that a tract of land to the south does in fact have a private air strip on it.

7. The recommendations of professional staff:

Staff feels the proposed use would be appropriate if the private air strip south of the site was not impacted but sometimes you have to weigh the benefit to the entire area when making your decision.

8. Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the county's Comprehensive Plan:

This particular site is inside the Urban Growth Area of the County as noted in the Butler County Comprehensive Plan. The Comprehensive Plan stipulates that the property is inside the UGA.

Many uses, even with an RR designation, could be considered a commercial use therefore staff feels the use proposed could be considered to be in conformance with the Comprehensive Plan.

9. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use:

Staff feels the hardship issue is irrelevant in this case. Zoning Regulations have been upheld in Courts for a long period of time. The very nature of zoning regulations implies that the public good is served by not allowing certain uses in certain locations. To imply that they serve as a hardship by not allowing a certain use on any particular property is incorrect. When a person buys property, he/she is not guaranteed a use of that property other than what is allowed at the time they buy it.

10. Whether the proposed Conditional Use, if it complies with any and all the conditions upon which the approval is made contingent, will not adversely affect the property in the area:

It is felt the proposed use could adversely affect the property in the surrounding area and is therefore proposing the following Condition. No Strobe lights will be placed on the top of the Tower.

11. For uses as solid waste disposal facilities, including sanitary landfills, construction and demolition landfills and transfer stations, whether the proposed Conditional Use is consistent with the Comprehensive Solid Waste Management Plan for Butler County, and amendments thereto: **N/A**

12. Such other factors as may be relevant from the facts and evidence presented in the application:

Staff viewed the site and felt comfortable that if the Tower were to be placed on the site as proposed it would not impact any neighbors with the possible exception of the neighbor to the south that has the private runway.

Angela Tarter with Network Real Estate LLC was present and spoke on behalf of the applicant. A private plane runway that runs south of the applicant's property came into question. Ms. Tarter shared Kansas Statutes regarding the runway and assure the board that since it is not a FFA regulated runway, no restrictions would apply. An informational packet was handed out containing information from the American Cancer Society which states that there is no health risk due to the radio waves. The tower's main purpose will be broadband internet but will have cell phone capabilities as well.

Board: What made AT&T chose this location and why?

Angela Tarter: AT&T received a grant to bring and increase broadband internet service in the rural areas. The more populated areas do not require new towers since old towers can be used for the purpose of bringing broadband internet to those areas.

Ms. Tarter was asked about how large of an area this tower would serve. She was unsure but offered to get this information for the board.

There were several neighborhood residents that made comments to the board about this tower project. One of the main concerns was how it will affect their health and how their property values will be affected by this communications tower being installed. The owner of the private runway also mentioned that he has started the FAA registration process for his runway.

Board: I did do some of my own research and looked at some of the other towers out there. I will say that I would have a difficult telling the difference between a 160 foot tower and a 180 foot tower. Google is a slippery slope as well since anyone can put anything on it. I also want to mention that in my opinion the aspects of how it will affect the people's health, I have not seen enough here to say that it is clear whether it does or doesn't.

Board: Will there be a red light installed on the tower?

Staff: there was no mention of a red light being installed but I am sure we could make that a requirement should the application be approved.

No further questions or comments were made

Motion: David Greene Jr.

Second: Kermit Frey

Action: Denied 4-0

To be heard before the BOCC on February 26th, 2018 @ 9:00am

*****MEETING ADJOURNED*****