

KECHI PLANNING COMMISSION & BOARD OF ZONING APPEALS

Minutes July 10, 2018

1. Call to Order
Chairman Pressnell called the regular meeting of the Kechi Planning Commission to order at 7:09pm in Council Chambers of Kechi City Hall.
2. Roll Call
Members in attendance were Buddy Pressnell, Larry Burk, Bill Moss, Richard Wolf, Dan Clark, Virginia Riemann, and Oscar Thomison. Staff in attendance were Zoning Administrator Chris Morlan, City Administrator Robert Conger and Planning Commission Secretary Theresa Morlan. Guests were Lee Boyer and Karin Anderson.
3. Approval of Agenda
Bill Moss moved to approve the Agenda as written, and Oscar Thomison seconded the motion. Motion passed 6-0.
4. Approval of Minutes
Larry Burk moved to accept the minutes from the June 12, 2018 meeting. Motion was seconded by Oscar Thomison and carried 6-0.
5. Public Forum/ Communications
None
6. Public Hearings
 - a. **VAC-2018-01 Lee Boyer request to vacate Drainage Easement**
Chairman Pressnell called the agenda item and read the ground rules for the public hearing. Virginia Riemann, Larry Burk and Dan Clark disqualified themselves, because of owning property in the notification area or having a conflict of interest. There was a quorum of 4 present for the hearing. Notification of the hearing was published in the Ark Valley News on June 14, 2018, and notices were mailed to the applicant and 12 real property owners in the area on June 9, 2018. There were no ex parte communications, although Patty Logan did ask Oscar Thomison about the backhoe on Boyer's property, but no information was shared prior to the meeting.

Subdivision Administrator (S.A.) Morlan reported on the subject property, history and condition, and that the applicant has three lots that make up his property, but the drainage easement is only on one of the lots. This request is to vacate the drainage easement that was established for "The Boardwalk" project that has since been abandoned according to statements by the owners and newspaper article. This is the first time this request has been received and scheduled for a public hearing. The property is just west of 300 E Kechi Rd, the specific lot is 2.14 acres, and the total property consists of three separate properties totaling 5.49 acres. The adjacent zoning and existing land use to the north is R-1 Single-Family Residential and C-3 General Commercial with single family homes and undeveloped commercial land; to the south is C-1 Arts & Business and C-3 General Commercial with single family homes, undeveloped commercial land and retail shops; to the east is R-1 Single-Family Residential and R-2 Multiple-Family Residential with single family homes, twin homes and mini-storage, and to the west is C-1 Arts & Business and R-1 Single-Family Residential with commercial greenhouses, single family homes and artisan businesses. In February 2016 a drainage easement was filed on this property to assist with the surface drainage of the property directly south, platted as "The Boardwalk," based on the approved site plan. S.A. Morlan

stated that this request is due to the desire of the applicant to retain control of his property in the light that the conditions that were present when the drainage easement was put in place have changed. He reported that in his opinion, due and legal notice has been given, no property rights will be injured or endangered, the public will suffer no loss or inconvenience and in justice to the petitioners the vacation should be granted. Richard Wolf asked if the property owners were compensated for the easement. The City Administrator (C.A.) stated that no one was given compensation when the drainage easement was established.

Applicants' Request:

Ms. Anderson stated that one reason for the request to vacate the easement in which the waiver for surface drainage was granted on February 11, 2016, was due to the 11 inches of rain on July 1, 2016. The wall of water and resulting flood was 3 inches from flooding their rental property. This opened their eyes to how much water they are currently and could possibly be accepting. The neighbors to the north dispose of yard waste in the creek, and no repairs have been made downstream to the south to improve drainage. The deterioration of the storm water pipe under F & H Insulation increases runoff problems. Valley Floral has satisfactorily remedied their storm water runoff that flows onto the applicants' property. Someone else's plan for the Boardwalk property might not be accommodating, and they can't control others' plans but can only control their own. Currently, they are digging out the pond to allow for more retention on their site. Ms. Anderson showed pictures of the debris and the overflow from the F & H pipes. The creek from the park to their pond is often dry. During the July 2016 flood, F & H was flooded, and there was damage to buildings and semi-trucks on the south end of their property, as well as the drainage pipe that is under their parking lot. The applicants have not been on F & H property to assess damage. Valley Floral corrected the drainage from their bubbler pipe. When asked if the flood occurred today, would the outcome be the same, Ms. Anderson responded that the pond is wider and deeper now and would be able to retain more water. They wish to regain control of having water from "The Boardwalk" property not being diverted to their property and instead going to the south as has been its current flow. Bill Moss noted that even had the project been completed, most water would still be coming from the north and not from "The Boardwalk" property. Larry Burk asked if property was located in the floodplain. Z.A. Morlan, who is also the Floodplain Administrator stated this property is not located in the floodplain.

Public Comment: Regarding questions about state statutes related to the creek as a navigable waterway or flood plain concerns – C.A. Conger restated this creek is not in a regulated flood plain on this property, and the only statutes governing it would be the Storm Water Utility regulations that governs waterway obstructions and blockages as the water is flowing through town and what private owners should do to maintain it. Virginia Riemann stated that they had no intent to leave the easement in place and believes it should have been vacated sooner. In regard to a long term drainage plan, C.A. Conger stated that the city has just gotten a report from PEC on drainage, but hasn't yet prioritized it to look at areas where there the greatest problems may exist. Mr. Moss said that surface drainage is never the answer. C.A. Conger said that they haven't looked at "The Venue" specifically and its impact downstream, although they were to have an approved drainage plan as part of their site plan approval. Mr. Boyer responded to Mr. Wolf's question about the increased size of the pond saying that it is almost twice as big now, and that over the last 5 years, he has had a big problem with moss as a result of what has been dumped into the creek from upstream. There was no written communication, and the public hearing closed at 7:51pm.

Consideration of the Evidence:

1. Due and legal notice has been given. The Planning Commission (P.C.) found that public notice

was published the Ark Valley News on June 14th, and letters to required surrounding property owners were sent June 19th, thus meeting the statutory requirements.

2. The P.C. agreed with the S.A. statement that no private property rights will be injured or endangered, as an approved plat and site plan for “The Boardwalk” have been approved. If drainage easement is vacated and someone wants to build/improve the property as approved, adjustments to the approved drainage plan would be required and would have to be approved by the City Engineer. If there is a new site plan for the property, the drainage plan would have to be approved with the new site plan.
3. The P.C. agreed with the S.A. statement that the public will suffer no loss or inconvenience, and without improvement being placed as approved, the surrounding properties will continue to drain as they have for many years.
4. The P.C. agreed with the S.A. statement the “In justice to the petitioners, the vacation should be granted.”

Motion:

Having considered the evidence at the hearing for Case No. VAC-2018-01 and determined that the finding of fact have been found to exist that support the four conditions set out in Section 10-103 A2 of the Subdivision Regulations, I, Bill Moss move that the Planning Commission make a recommendation to the Governing Body to approve the vacation as requested. Oscar Thomison seconded the motion, which passed by a vote of 4-0.

Chairperson Pressnell stated that the recommendation and a written summary of the Public Hearing will be considered by the Governing Body at their meeting on July 26, 2018 to be held at 7:00pm in the Council Chambers at Kechi City Hall.

7. Preliminary Plat
None

8. Final Plat
None

9. Screening Plan/Site Plan Review
None

10. Unfinished Business
Z.A Morlan provided a chart of setbacks for different commercial districts in surrounding small cities and gave background on how the changes to the setbacks in our C-3 General Commercial District came to be changed in the final copy of the new Zoning Regulations. When asked to change the name from “Heavy Commercial” to “General Commercial,” Mr. Dunakey looked to area cities’ regulations for comparison. The changes in setbacks made are almost identical to Park City’s General Commercial District with the exception that theirs requires more than 100 acres with one owner. Z.A. Morlan recommends that in our C-3 General Commercial District that the front setback be 35ft, the side yard setback to be 5ft if not attached to neighboring buildings or 10ft if neighboring residential districts, and the rear yard setback to be 10ft if not attached to neighboring buildings or 20ft if neighboring residential districts. These would be very similar to Valley Center’s requirement, and the front and rear setbacks would match the C-2 Light Commercial District. The general consensus of the P.C. was to go with those recommendations. The public hearing for changes to Zoning Regulations is planned to be held at the August Planning Commission meeting.

11. New Business
2018-2023 Capital Improvement Plan

Z.A. Morlan stated that State Statute requires that the P.C. review the C.I.P. to verify that it follows the Comprehensive and Strategic Plans. The Public Works building was adequate when build, but due to increase in equipment and storage of sand needing to be enclosed, the department has outgrown the space and the building. It is not possible to build on the old sewage lagoon without a lot of work and removal of buried materials. The community desires more recreational opportunities, which seem to be the preferred future development of this area. Other questions were related to way finding signs and gas reading systems stated as part of the C.I.P. plan.

Oscar Thomison made the motion to recommend to the City Council the approval of the 2019 Capital Improvement Plan. Richard Wolf seconded the motion, which passed by a vote of 4-0.

C.A. Conger said that the Kechi Rd and Oliver project would be reviewed/redesigned with a 20-80 matching federal grant to cover design and construction. The project would extend 150-200yds in each direction. The storm water issues would be addressed at the same time as making the area more walkable. The water pipes along Kechi Rd will be replaced as well as new hydrants. PEC will help develop the master plan for the Arts & Business District design which will start this fall. It will drive the redesign of Kechi Rd and Oliver and will be developed with citizen engagement

12. Committee & Staff Reports

Z.A. Morlan reported that bond council has received the petitions for street and utilities for Phase 2 of Rock Pointe. There are 46 lots in that phase. City Council did unanimously approve the Conditional Use of the oversized agricultural building. Last year, Union Pacific was given a permit, because it is in the flood plain, to replace the railroad bridge north of 61st street. It is part of the larger reconstruction at 45th Street N and Hillside, and their start date for the permit was extended to September 2018. Z.A. Morlan will update the lot information on Snowbird Addition in his zoning report to reflect changes as result of the replat. At the August PC meeting, there will be a public hearing for a Conditional Use for an accessory dwelling.

13. Adjourn

Motion by Richard Wolf to adjourn at 8:30pm., second by Oscar Thomison. Motion passed 4-0.

Respectfully Submitted,

Buddy Pressnell, Chairperson
Kechi Planning Commission