

## MINUTES

### RILEY COUNTY BOARD OF ZONING APPEALS

Monday, October 20, 2008  
1:30 p.m.

1710 Avery Drive, CICO Park  
Pottorf Hall, Clover Room

Members Present: Derek Mosier – Chair  
Tom Finney

Staff Present: Bob Isaac – Planner  
Kelsey Strickler – Clerical Assistant

Others Present: Don Schmelze – Representing Kevin Morganfield  
Greg Wilson – owner of G&T LCC  
Ronald Sowell, Nyle Larson,  
Vern Bulk – Representing Manhattan Township

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The minutes of the August 18, 2008 meeting were approved.

**MORGANFIELD** - (*REQUEST A HORSE BOARDING OPERATION IN A "C-4" ZONING DISTRICT*)

Derek Mosier, Chairman, opened the public hearing at the request of Kevin Morganfield, petitioner and owner, for a conditional use authorization to permit a horse boarding operation in a C-4 (Highway Business) zoning district.

Bob Isaac, Planner, presented the staff report which included the background of the subject property. Mr. Isaac explained that the reason for the request is to continue to board one horse on the property. Mr. Isaac stated that the owner, Kevin Morganfield, does not intend to have additional horses. Mr. Isaac stated that due to the existing residential development northwest of the pasture, there may be the potential for agricultural/urban conflicts. Mr. Isaac reminded the Board that if approved, the conditional use authorization would run with the land. Mr. Isaac stated that the request was reviewed by the Health Department, County Engineer, Ft. Riley Public Works, Riley County Conservation District and Riley County Emergency Management, with no objections.

Staff recommended approval of the request with understanding that the conditions presented in the staff report are met.

The Board had no questions for Mr. Isaac.

Mr. Mosier asked Mr. Schmelze, the horse owner and representative of the petition, if he would like to speak.

Mr. Schmelze had no further comments.

Mr. Mosier closed the public hearing.

Mr. Mosier asked if there was a motion to approve the request.

Tom Finney moved to approve the request of Kevin Morganfield, petitioner and owner, for a conditional use to permit a horse boarding operation in a “C-4” (Highway Business) zoning district with staff recommendations.

Derek Mosier seconded. The motion carried 2-0.

Mr. Mosier announced that if anyone would like to appeal, they have 30 days to do so in the district court.

**G&T LLC** – (REQUEST A 5-PHASE BORROW PIT FOR RESOURCE EXTRACTION)

Derek Mosier, Chairman, opened the public hearing at the request of G&T LLC, petitioner and Greg & Theresa, owners, for a conditional use authorization to permit a 5-phase borrow pit for resource extraction.

Bob Isaac, Planner, presented the staff report which included the background of the subject property. Mr. Isaac explained that the owners proposed a plan to excavate certain portions of the 84.5-acre tract in five (5) separate phases, each five year increments. Mr. Isaac stated that there is currently a small borrow pit at this north end of the site leftover from an operation too small to require a conditional use. Mr. Isaac stated that the entire site was within the designated floodway and consists entirely of prime agricultural soils. Mr. Isaac stated that Temple Lane would be the only roadway serving the site and the primary source of fugitive dust. Mr. Isaac informed the Board that he had received a phone call from Scott Sowell. Mr. Isaac stated that Mr. Sowell was concerned with the dust control and noted that the fugitive dust was not satisfactorily controlled by the borrow pit operator. Mr. Isaac stated that Mr. Sowell also warned of securing the site from illegal dumping activity at night. Mr. Isaac also informed the Board that the regulations concerning borrow pits require a performance bond for site reclamation be submitted before operations could commence. Mr. Isaac explained that the Applicant has exhausted all possibilities of obtaining a performance bond. Mr. Isaac stated that by contacting officials at KDHE and the State Conservation Commission, he had learned that performance bonds were rarely used or required by the state, rather Letters of Credit, Certificate of Deposits or cash were used instead. Mr. Isaac stated that the Planning & Development Department was exploring the possibility of amending the zoning regulations to include different options to financially assure reclamation of borrow pit sites.

Staff recommended approval of the request with understanding that the conditions presented in the staff report are met.

The Board asked Mr. Wilson if he had any additions or comments to Mr. Isaac’s presentation.

Mr. Wilson stated that what Mr. Isaac had presented was correct and no changes were necessary.

The Board asked if there were any opponents to the request.

Ronald Sowell, Nyle Larson, and Vern Bulk stated they were not opposed to the request but had concerns.

Mr. Sowell stated his concern was with the proposal to include a pond as part of the reclamation plan of Phase I, especially considering that the water level of the 1993 flood, the proximity of the river and the likelihood of another flood event. Mr. Sowell stated that floodwaters could deposit debris in the pond.

Mr. Mosier mentioned that anytime in a floodplain, there will always be the possibility for considerable amounts of water and debris.

Mr. Wilson stated that the purpose of the pond was to reclaim the land. Mr. Wilson mentioned that the pond does not have to be there but before he bought the property, the pond was recommended and approved by the State.

Mr. Sowell stated that the previous owner was to put a fence around the entire borrow pit.

Mr. Wilson stated that it will be completely secured but he is not planning on fencing the entire pit. Mr. Wilson stated that although it was not realistic, but he is still concerned about illegal dumping activity.

Vern Bulk expressed his concerns about the road maintenance. Mr. Bulk stated that Temple Road is a low volume road and may be too narrow in places to accommodate the proposed use. Mr. Bulk also stated that the township simply does not have the funds available to widen the road. Mr. Bulk also expressed that additional traffic signs should be added for safety, especially near Linear Trail.

Mr. Mosier asked Mr. Isaac if there are any mechanisms for upkeep of the road.

Mr. Mosier asked Mr. Wilson what types of trucks would be traveling on this road.

Mr. Wilson stated that big dump trucks and cement trucks would be traveling on the road daily. Mr. Wilson stated that he had called Vern Bulk previously to discuss the operation. Mr. Wilson stated that Mr. Bulk had said Pottawatomie County uses calcium chloride to minimize the dust and the that County pays half of the cost. Mr. Bulk recommended asphalt fillings or calcium chloride treatments as dust control measures.

Mr. Wilson stated that if the dust causes a problem, he will put water on the road.

Mr. Mosier expressed that the item had too many unanswered questions and preferred that the Board "table" the request until the November meeting. Mr. Mosier stated that he is not for or against the request; he just doesn't want to accept it prematurely. Mr. Mosier stated that he would also like for all three Board members to be present before deciding on this request.

Mr. Finney motioned to “table” the request until the November meeting for the purpose of obtaining information regarding the surface of Temple Lane, signage and specific language of the conditions.

Mr. Mosier seconded. Motion carried 2-0.

Meeting was adjourned at 2:53pm.