



MARION COUNTY COURTHOUSE

MARION COUNTY, KANSAS

## PLANNING COMMISSION/BOARD OF ZONING APPEALS

203 SOUTH THIRD  
MARION, KANSAS 66861  
PHONE: 620-382-2945

### STAFF REPORT

April 17, 2018

**TO:** Marion County Planning Commission/Board of Zoning Appeals

**FROM:** Emma Tajchman, Director of Planning and Zoning

**SUBJECT:** PC-18-02– Request for a Conditional Use Permit to expand the grounds of an established school, Centre Unified School District 397, at 2382 310<sup>th</sup> Street, Lost Springs, Kansas, on property zoned “RR” Rural Residential District.

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This is the request of the Board of Education for Centre Unified School District 397 requesting a Conditional Use Permit to expand the grounds of an established school on property zoned “RR” Rural Residential District in the Southeast Quarter of Section 35, Township 17, Range 04 East of the 6<sup>th</sup> P.M., Marion County, Kansas.

The applicant recently purchased 14.482 acres adjacent to their existing parcel. The additional acreage was subject to an agricultural lot split which is near completion. The parcel where the school exists consists of 22.97 acres. The established school has been operating as a grandfathered use; however, the newly acquired property requires a conditional use permit per the Marion County Zoning regulations. This application includes both tracts. The property of the established school grounds is solely for educational uses and activities. A variety of structures are present including classrooms, offices, transportation buildings, athletic facilities, parking areas, and wastewater lagoons. The newly acquired property is intended to be used similarly. There are no immediate plans for development. A letter of intent accompanied the application, which outlined several long term options. Expansion of the wastewater lagoons is a need that has been identified. There is also the possibility of rerouting the access to the north part of the property. The proposed projects may require additional permitting at the local and/or state level as deemed necessary at the time of development.

The Marion County Zoning Regulations has two specific sections that deal with submittal requirements for a Conditional Use Permit request. The first section requires that a Development Plan be included with the application. The standards for submittal of a Development Plan are outlined in Article 12 and listed below.

*The Development Plan shall include and/or display the following information:*

1. *When deemed necessary, a topographic survey indicating the legal description, property boundary, existing contours, existing utilities and easements, and natural and manmade features of the property.*
2. *A Development Plan, drawn to the same scale as the topographic survey, indicating:*
  - A. *existing contours (shown as dashed lines);*
  - B. *proposed contours (shown as solid lines);*
  - C. *location and orientation of all existing and proposed buildings;*
  - D. *areas to be used for parking, including the number and arrangement of stalls;*
  - E. *areas to be developed for screening, including the location of plant materials, and screening structures and features;*
  - F. *pedestrian and vehicular circulation and their relationship to existing streets, alleys and public right-of-way;*
  - G. *points of ingress and egress;*
  - H. *location of all existing and proposed utilities (sanitary sewage systems, water systems, storm drainage systems, gas lines, telephone lines and electrical power lines);*
  - I. *drainage controls (retention or detention ponds);*
  - J. *location, size and characteristics of identification and business signs;*
  - K. *lighting layout, appurtenances, and intensity of illumination;*
  - L. *proposed finished floor elevations of all buildings and structures.*
3. *A statement of intent shall accompany the Development Plan to explain the measures used to achieve compatibility of the proposed development with surrounding properties through the planning of the site and the location and design of structures.*

In Article 24 of the Marion County Zoning Regulations, the factors to be considered for a Conditional Use Permit are listed. The Marion County Planning Commission may recommend approval of a Conditional Use, and the Governing Body may approve such Conditional Use, using the following factors as guidelines. Those factors, and staff comments where appropriate, are as follows:

- A. *Whether approval of the Conditional Use would be consistent with the intent and purpose of these Regulations;*

Per Marion County Zoning Regulations, schools are permitted in the rural residential district with a conditional use permit.

- B. *Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;*

The primary land use in the area is agricultural with some residences. The established school has served the area for many years. The variation caused from the expanded grounds is expected to be minimal. It is the belief of staff that the proposed land use is suitable to the location.

- C. *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;*

Staff believes there will be little or no impact to public roads as a result of the proposed use. While the newly acquired property does have road frontage on a minimum maintenance road, there are no plans at this time that would require an additional entrance or improvement to that road. The primary entrance is expected to stay the same. It is currently located on a paved road. Staff does not anticipate any increase in traffic due to the proposed use.

- D. *Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;*

Staff does not believe this is applicable.

- E. *The length of time the subject property has remained vacant or undeveloped as zoned; provided, 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;*

Staff does not believe this is applicable.

- F. *Whether the applicant's property is suitable for the proposed use;*

The use has existed for a number of years on the primary parcel. The additional property is well suited in location and nature for the expansion of school grounds. Staff believes both tracts in question are suitable for the proposed use.

- G. *The recommendations of permanent or professional staff;*

See below.

H. *Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan;*

It is the opinion of staff that the proposed use would adhere to the intent of the Comprehensive Plan.

I. *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;*

While school related traffic may be viewed as a negative, it is well known that the presence of schools is an asset to communities in general. It is the opinion of staff that any hardships imposed do not outweigh the benefit of development at this location.

J. *Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 24 of these Regulations), will not adversely affect the property in the area affected; and,*

The immediate area surrounding the property is primarily agricultural in nature. The transportation system and required infrastructure are well established at this location and have been previously modified to accommodate school use. It is the opinion of staff that the properties in the immediate area will not experience adverse impacts.

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

This staff report covers all the issues identified based upon the Regulations and in response to the information submitted. Nothing more needs to be provided based upon what is known at this time.

**Staff Recommendation:**

Based on the evaluation of the above criteria, staff believes the expansion of an established school be recommended for approval.

**Suggested Motion:**

I move that Case No. PC-18-02, the request for a Conditional Use Permit to expand the grounds of an established school, by Centre Unified School District 397, at 2382 310<sup>th</sup> Street, Lost Springs, Kansas be recommended for approval.

RESOLUTION NO. 91-10

## A RESOLUTION PROVIDING FOR THE ESTABLISHMENT OF A COUNTY PLANNING COMMISSION FOR MARION COUNTY, KANSAS.

WHEREAS, the governing body of Marion County, Kansas recognizes pursuant to the provisions of Kansas Statutes annotated and there is a need for the establishment of a county planning commission to promote the health, safety, morals, and general welfare of the County and specifically to: Secure safety from fire, flood, and other danger; to prevent the over-crowding of land and undue concentrations of population; facilitate the adequate provisions of public requirements; protect property against blight and depreciation; protect the tax base; and secure economy in governmental expenditures.

NOW, THEREFORE, BE IT RESOLVED THE GOVERNING BODY OF MARION COUNTY, KANSAS HEREBY:

1. Establishes a nine member County Planning Commission. The members first appointed shall be appointed for terms of one, two and three years. The terms shall be divided equally or as nearly equally as possible between the members. Thereafter members shall be appointed for terms of three years each. Vacancies shall be filled by appointment by Board of County Commissioners for the unexpired term. Members of the board shall serve without compensation for their services.
2. Provides that the Planning Commission shall elect one member as chairperson and one member as vice-chairperson who shall serve one year and until their successors have been elected.
3. Provides that the Planning Commission shall also select a secretary, who may or may not be a member of the commission.
4. Provides that the Planning Commission shall adopt bylaws for the transaction of business and hearing procedures.
5. Provides that the members of the Planning Commission shall meet at such time and place as may be fixed in the Planning Commission's bylaws.
6. Provides that unless otherwise provided by Kansas Statutes, no action by the Planning Commission shall be taken except by a majority vote of the membership thereof.
7. Provides that an audio record or written minutes of all proceedings of the Planning Commission shall be kept.

8. Provides that the Board of County Commissioners shall approve a planning commission budget and make such allowances to the planning commission as it deems proper, including funds for the employment of such employees or consultants as the governing body may authorize and provide and shall add the same to the general budget.

ADOPTED AND PASSED by the County Board of Commissioners of the County of Marion, Kansas, this 2nd day of December, 1991. This Resolution shall become effective January 1, 1992.

Leon Suderman  
Leon Suderman, Chairman

Lucille Britain  
Lucille Britain, Member

Charles DeForest  
Charles DeForest, Member

ATTEST: Marquette Eilerts  
Marquette Eilerts, Co. Clerk

Amendment to Marion County Planning Commission/ Board of Zoning Appeals,  
February 23, 2017/March 25, 2010.

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**MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING**  
**APPEALS BYLAWS**

**ARTICLE I. CREATION, AUTHORITY AND DUTIES**

Section 1. Creation. The Marion County Planning Commission, herein after referred to as the "Commission" has been created by the Marion County Commissioners, herein after referred to as the "Governing Body", by the initial adoption of Resolution No. 91-10 which was passed and approved on December 2, 1991.

Section 2. Membership. The membership of the Marion County Planning Commission shall consist of nine members, ~~with three members appointed from each of the three County Commission districts. Planning Commission members shall serving staggered three-year terms~~ be who are electors and residents of Marion County, except that one such member may reside within the corporate limits of an incorporated city located within each of the three county commissioner districts. Members are appointed by the Governing Body, and vacancies are filled by appointment for the unexpired term.

Each member of the Planning Commission may serve three consecutive three-year terms. Once a member reaches their term limit they may be reappointed following a one-year hiatus from the Planning Commission.

Further the members of the Marion County Planning Commission shall sit as the Marion County Board of Zoning Appeals.

Section 3. Disqualification. Any member who is absent from more than three consecutive regular meetings for reasons not considered justifiable by the Commission shall be notified that the Commission will recommend to the Governing Body that his or her membership be declared vacated and a replacement appointment be made.

Section 4. Authority. The Commission is vested with the responsibilities of a Planning Commission as contained in the County Planning Statute KSA 12-744. When sitting as the Board of Zoning Appeals, the Board shall be vested with the responsibilities of a Board of Zoning Appeals as contained in K.S.A. 12-759, and amendments thereto.

Section 5. Duties. As provided for by the statutes referred to in Section 4, the duties of the Commission shall be:

1. Prepare, adopt, and maintain official zoning regulations and hearing procedures.

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2. Submit annual budget to the Governing Body. - *change language*

3. Prepare plans for special projects.
4. Maintain reference library of plans, reports, maps, resolutions, regulations, and policies for officials, citizens and developers.
5. Maintain cooperation with city planning groups.
6. Hold hearings make recommendations on matters assigned by the Governing Body.

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Section 6. Compensation. Members of the Commission shall serve without compensation for their services; however, the members may receive reimbursement for their authorized out-of-pocket expense related to the Commission's activities as the Governing Body may deem desirable.

**ARTICLE II. OFFICERS, ELECTION AND DUTIES.**

Section I. Officers. The officers of the Commission shall consist of a Chairperson, Vice-Chairperson and Secretary. The Chairperson and Vice-Chairperson shall be members of the commission; however, the Secretary may or may not be a member of the Commission. When the Secretary is a member of the Commission, the Secretary may utilize the services of a recording secretary when provided by the County. These officers shall also serve on the Board of Zoning Appeals.

Section II. Elections. At the regular Commission meeting in January of each year, the officers shall be nominated and those persons receiving the highest number of votes shall be deemed elected. Officers shall take office following the meeting and serve for one year or until their successor has been elected. Officers may serve for more than one term.

Sections 3. Duties.

The Chairperson shall perform the following duties:

*take effect immediately following appointment*

1. The Chairperson shall preside at all meetings of the Commission. In the absence of the Chairperson, the Vice-Chairperson shall preside. In the absence of both the Chairperson and the Vice-Chairperson, ~~the Secretary shall preside to select a temporary Chairperson and the Secretary shall relinquish the Chair after selection of the members present shall appoint a temporary Chairperson to preside.~~
2. The Chairperson shall sign all minutes, and other official papers and documents to indicate that they have been approved by the Commission.
3. The Chairperson shall represent the Commission at all meetings with other groups unless another member is designated to perform that function.
4. The Chairperson shall also be responsible to oversee the preparation and distribution of agendas for the Commission meeting, if he or she so chooses, or direct the Secretary to prepare the agenda for meetings and hearings. Final approval

*voting*

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of the agenda will be from the Chairperson. The agenda may be amended by a majority vote of the Commission.

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The Vice-Chairperson shall act in the manner and capacity as the Chairperson in the absence of the Chairperson.

The Secretary of designee shall perform the following duties:

1. Prepare the minutes of each Commission meeting and submit them to the Commission for approval.
2. Maintain an official file or record book of the minutes as approved and signed; and provide the Governing Body with copies on a continuing basis.
3. Distribute to each Commission member all current materials relating to County planning and zoning as they are received.
4. Prepare and distribute agendas for each Commission meeting under the direction of the Chairperson.

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### **ARTICLE III. MEETINGS**

**Section 1. Regular Meetings.** Regular meetings of the Commission shall be held on the fourth Thursday of each month. When the date of a regular meeting coincides with a legal holiday, the Commission may designate the date for the next regular meeting. Unless otherwise publicly announced by the Chairperson, ~~all regular meetings shall be held in the commissioner's room at the Marion County Courthouse~~ office of the Planning & Zoning Administrator at 7:00pm beginning November through March at 6:30p.m. and April through October at 7:30p.m., provided, however that the Commission may adopt another hour, date and place of meeting by majority vote. Any such changes shall be given wide publicity for the convenience of persons having business before the Commission.

**Sections 2. Special Meetings.** Special meetings may be called by the Chairperson or in the Chairperson's absence by the Vice-Chairperson, for whatever date, time and purpose deemed necessary. In the event a special meeting is called, notice as to date, time, place and reasons for the meetings shall be given by the Chairperson to all the Commission members and the Governing Body at least 20 days before the meeting. The announcement of a special meeting at a regular meeting shall constitute notice to those members present. Members not present and the Governing Body shall be notified by the Chairperson.

No matters other than those enumerated in the notice shall be considered at a special meeting.

**Section 3. Adjourned Meetings.** If the business before the Commission is not completed, the Commission by motion may adjourn the meeting or a specific item to a specified date, time and place until the matters on the original agenda or the specified item are acted upon. When such a motion is made known to those persons in attendance, no further notice need be given.

Section 4. Open Meetings. All meetings of the Commission shall be open to the public and to representatives of the news media.

Section 5. Quorum. A quorum shall consist of a majority of the membership designated by the resolution creating the commission whether any vacancies exist or not. A quorum must be present to conduct any business including hearings. In the absence of a quorum at any meeting, the presiding officer after consultation with those members present may adjourn the meeting to a specified date, time, and place. When such information is made known to those persons in attendance, no further notice need be given. A quorum is not lost when a member abstains from voting.

Section 6. Agendas. The Chairperson shall prepare an agenda of all matters to come before the meeting and mail or deliver it to the Commission members no later than 10 calendar days preceding the next regular meeting. Copies of the agenda shall be furnished to the Governing Body and to each party having an item on the agenda. Any member of the Commission may place items on the agenda by advising the Chairperson no later than 14 days preceding the next regular meeting. Off agenda items may be considered at the end of the regular agenda.

*Secretary under direction of chair person*

Section 7. Recording of Meetings. The Secretary shall maintain complete records of all matters coming before the Commission. The Secretary shall also prepare and maintain permanent minutes to be kept in a file or record book available for public view. Permanent copies of such minutes shall not be removed from the Courthouse except by order of a court. Copies of the minutes shall be furnished to all persons or bodies making such a request to the Secretary. The Secretary may make such charges as are necessary to recover the cost of making such copies.

Section 8. Actions. In all formal matters, the Commission shall act by motion unless a resolution is required by law or governmental regulations. All notices required by law to be given by publication including those for public hearings shall be published in the official designated county newspaper.

*In the case of the BZA*

Section 9. Parliamentary Procedure. All meeting of the Commission and of its committees shall be conducted in accordance with Robert's Rules of Order except insofar as modified by these Bylaws and procedures adopted by the Commission:

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1. Motions to "receive and file" shall not be debatable.
2. A second shall be required for all motions.
3. The presiding officer shall have the right to make motions and to second motions without vacating the chair.
4. The Commission may suspend the rules provided that:

- a. The motion to suspend the rules takes precedence over other prime motions
  - b. The motion shall state the specific purpose and rule to be suspended
  - c. No such motion shall be considered approved unless the length of time such suspension will be in effect has been specified
  - d. The motions shall be approved by a majority of the quorum
  - e. No suspension of the rules be considered permanent
5. Participation from the floor (audience) on any matter may be limited at the discretion of the presiding officer when in his opinion such participation is repetitious; contains statements derogatory to the character, integrity or actions of the Commission or any member without support of such allegations; or when the course of business due to the number of matters to be considered and/or number of people requesting to be heard will not reasonably permit further participation. Each member of the Commission may speak to an issue as many times as may be desired. Those persons speaking on a given item or case from the floor may speak only two times unless otherwise requested to do so by a Commission member or when such person received permission from the presiding officer.
6. When a quorum is present, a majority of the present and voting members shall be sufficient for the passage of any motion. Any member abstaining or remaining silent on a vote shall be considered to have acquiesced with the majority vote of those who voted. However, in the case of an equally divided vote, the vote of a member abstaining or remaining silent is not to be counted. In any divided vote, the presiding officer shall call for a roll-call vote. The Secretary shall enter into the minutes the results by name of all roll-call votes.
7. The presiding officer may grant permission for any member to abstain or any particular vote when the member declares a conflict of interest and requests the presiding officer to approve an abstention from voting. When such an abstention is granted, the requesting member shall disassociate himself or herself from the assembled members and not engage in discussion until the particular item is acted upon. Members shall automatically be granted an abstention when they or their spouse own

property in the area of notification for a rezoning case. Such abstention shall not prevent them from signing a protest petition.

8. Subject to these provisions, the presiding officer shall decide all points of order and procedure, unless overruled by majority of the total membership of the Commission.

**ARTICLE IV. COMMITTEES**

Section 1. Committees and Liaison Representatives. The Chairperson, with the consent of the Commission, may appoint standing and ad hoc committees and liaison representatives as may be needed to assist in the business of the Commission. The membership of such committee(s) and liaison representatives may consist of all Commission members or part Commission members or be all non-Commission members.

**ARTICLE V. AMENDMENTS TO BYLAWS**

Section 1. Amendments. The Commission may, by a two-thirds majority vote thereof, amend these Bylaws or any provisions or sections thereof, at any time when the same is not in conflict of any of the laws of the State of Kansas or resolutions of the County applicable thereto. Notice of the proposed amendments shall be furnished by the Secretary to the Commission members and the Governing body not less than 20 calendar days prior to the meeting at which such amendments are to be considered.

As revised and approved the \_\_\_ day of ~~April, 2010~~ February, 2017.

Planning Commission of Marion County, Kansas

By: \_\_\_\_\_  
Chairperson

Attest: \_\_\_\_\_  
Secretary