

MINUTES OF THE PLANNING COMMISSION MEETING

**PLANNING COMMISSION/
BOARD OF ZONING APPEALS
September 20, 2011**

Commissioners Present: Cowman, McLean, Smith, Pfefferkorn

Commissioners Absent: Wrischnik, Peterson

Others Present: Mike Gotfredson, Amy Barenklau, Brian McCauley, Dwight Francis, Sherry Francis and Kevin Ross

Item 1: Pledge of Allegiance

Item 2: Consider minutes from the June 21, 2011 meeting.

Chair Cowman called the meeting to order. The first order of business was the consideration of the minutes from the June 21, 2011 meeting.

Commissioners McLean and Pfefferkorn made a motion to approve the minutes as submitted, with all Commissioners voting in favor.

Item 3: Consideration and vote on a renewal of a Conditional Use permit for a daycare business at 5 E Piankishaw, Dwight Francis, applicant.

Commissioners McLean and Pfefferkorn made a motion to open the public hearing with all Commissioners voting in favor.

Planner Gotfredson presented an overview of the request and history of the CUP. He stated that the applicant had met the conditions of approval and he did not feel there was a need for any additional conditions.

Planner Gotfredson's findings are that the application is consistent with Section 21.220 of the LDO, the conditions of approval are consistent with Section 21.222 of the LDO, and that the application will not be detrimental to the health, safety or general welfare of the community.

Mr. Gotfredson recommends approval of the conditional use permit with the following conditions:

1. Outside play areas shall be fenced.
2. the day care provider shall be licensed by the State of Kansas.
3. The maximum number of children may not exceed 60.

4. This renewal is approved for three years.

Planner Gotfredson stated that Dwight Francis was in attendance and would be happy to answer any questions the Commissioners might have for him.

The Commissioners stated they did not have any questions at this time.

There were no additional comments from those in attendance.

Commissioners McLean and Pfefferkorn made a motion to close the public hearing. All Commissioners voted in favor.

Commissioners Cowman and Smith made a motion to recommend approval of the Conditional Use Permit for a day care at 5 East Piankishaw with the recommended conditions. All Commissioners were in favor.

Item 4: Consideration and vote on a fence at 7 Baptiste Drive, Pearl Street Baptist Church, applicant.

Planner Gotfredson presented background for the request and reviewed the sections of the Land Development Ordinance which regulate fences. He indicated that Church members want the kids to be safe while enjoying the play equipment, and would like to use chain link to enclose the play area.

Mr. Gotfredson reviewed Section 03.211 of the LDO and specifically read through Section C, number 4 with Commissioners to help explain the background for the request being brought to the Planning Commission for their decision. He explained that in discussions with Kevin Ross about the location and fence options; the location indicated in provided documents and the desire for a chain link fence are what the Church has presented for your consideration.

Planner Gotfredson recommends that the Planning Commission determine whether or not this application complies with Section 03.211 C (4) and approve or deny accordingly. Either way, it is important to clearly state the Commission's reasoning/rationale for its vote.

Planner Gotfredson indicated that Mr. Ross was in attendance to answer questions for the Commissioners.

Kevin Ross with the Pearl Street Baptist Church spoke with Commissioners about the members' concern about well-being of the children while enjoying the equipment. He stated he felt that a part wood/part chain link fence would not be aesthetically pleasing. In regards to the possibility of moving the area to the west of the building, he stated it would place the play area in the middle of a drainage area for properties located to the south of their property. He said that unfortunately there was not an ideal place on the property for what they are proposing, but he

hoped all parties could work together to come up with a solution so the kids can enjoy the equipment.

Commissioner Cowman stated he felt that the LDO seemed to focus on safety in this section and he felt it failed to address the fact that Churches are another location where children tend to gather. He stated that the LDO also stated to comply as nearly as practical; this property did not leave many choices for the applicant. He felt that the location they have proposed is practical.

Commissioner McLean stated he was concerned about the visibility of the proposed location. With the existing wooden fence near the Church, he did not see how or where anyone would be able to see in the play area. He inquired if the existing fence could be removed and the play area moved closer to the building.

Mr. Ross stated that the existing fence screened heating and air conditioning units and a trash dumpster. In regards to the concern that no one would be able to see the children from the Church, he indicated that the majority of the time an adult would be in the area to supervise. He also stated that there was some shade near the proposed area which made it more desirable. The plan is to have a chain link chute from the building to the play area, to help keep kids from running across the parking lot, which helps lessen the safety concerns with church members.

Commissioner Smith stated he did not see how they could keep an eye on the children unless they used chain link fence.

Commissioner Pfefferkorn inquired as to what extent the direction should be taken in this case; should the LDO be amended to include churches so there is no perception of preferential treatment or in order to maintain consistency.

Planner Gotfredson stated he did not feel amending the LDO was necessary at this time. He stated the biggest issue is location of the fence, and how to justify chain link if Commissioners decide that is the proper application for this request.

Commissioner Cowman asked if there was concern that neighborhood children would utilize the play area since it would be so close to the public sidewalk. Mr. Ross indicated he was aware they would need to put up signage, but was not opposed to providing an area for kids in the neighborhood as long as adults monitor the play. He stated he felt the play equipment and area would help that area of the property look nicer as it is somewhat difficult to maintain now.

Commissioners had additional discussion about the proposed location and possibility of moving the play area back south toward the building. Commissioner Cowman stated he felt they should be making a decision about a specific location. Commissioner Smith stated he would like additional time to review the property more closely.

Commissioners Cowman and Pfefferkorn made a motion to table the decision on a request for a chain link fence at 7 Baptiste Drive until the next meeting. All Commissioners voted in favor.

Item 5: Consideration and vote on changes to the Land Development Ordinance related to the Community Growth Areas, City of Paola, applicant.

Commissioners McLean and Pfefferkorn made a motion to open the public hearing with all Commissioners voting in favor.

Planner Gotfredson presented the staff brief and a short background of the request. Areas of the LDO that were affected by the end of the interlocal agreement were reviewed and explanations given for why changes had to be made. He stated that the section in regards to members on the Planning Commission from outside the city limits will remain, as the city still desires to have their perspective represented. Mr. Gotfredson stated that if Commissioners wanted to table the item that was acceptable, but he wanted to get started on the process.

Commissioners McLean and Pfefferkorn made a motion to close the public hearing with all Commissioners voting in favor.

Commissioners Cowman and McLean made a motion to table the Community Growth Area amendments to the Land Development Ordinance until next meeting. All Commissioners voted in favor.

Item 6: City Planner Report and Items from Commissioners.

Planner Gotfredson stated that since the last meeting, the Growth Areas have been terminated and that the first test for the county will be the comprehensive plan update. He told Commissioners they were welcome to attend the county's planning meetings at the beginning of each month.

Planner Gotfredson stated that Tom Bonner had resigned from his position as he had moved to Olathe. Any suggestions for a replacement would be greatly appreciated and forwarded to Mayor Stuteville for her consideration.

Planner Gotfredson stated that staff had received a request from a business owner to consider allowing inflatable items for advertising purposes. He stated that it seemed in his review of the LDO that the intent was not to allow those types of advertising. In fact, he stated it seemed the regulations were put in place to limit clutter and distractions. He asked Commissioners for their thoughts on the subject.

Commissioner Cowman stated he felt that the interpretation of the intent was correct. He felt they were a hazard and distraction for traffic. Commissioner Smith stated he might not be completely opposed, but it would have to be a very limited basis for him to consider. Commissioner McLean stated it was a very congested area where they were placed recently.

There was discussion about the proposed allowance for a certain number of days or weekends per year. Commissioners felt it would be too difficult to monitor who was complying or who had utilized more days than allowed. Commissioners also discussed how to regulate size and where they could be located so as not to be a distraction for traffic.

The consensus of those in attendance was that the LDO should not be changed, and inflatables should not be allowed or an exception to the regulations.

Planner Gotfredson gave a quick overview of the training he provided in packets in regards to effective meetings, rules of order and maintaining control of the crowd and meetings.

Item 7: Adjournment

Commissioners Cowman and Smith made a motion to adjourn the meeting. All Commissioners voted in favor.

Meeting was adjourned at 6:10 pm.