

MINUTES OF THE REGULAR PLANNING COMMISSION MEETING

**PLANNING COMMISSION/
BOARD OF ZONING APPEALS
September 19, 2006**

Commissioners Present: Cowman, McLean, Gage, Rhodes, L. Smith

Others Present: Amy Barenklau, Ross VanderHamm, Brian McCauley, Tommy Morris, Jr., Matt Serrano, Kenneth and Debra Moore, Jack Rowlett, Jr.

Item 1: Consider the minutes for the August 15, 2006 meeting.

Chair Cowman called the meeting to order with the first order of business the consideration of the minutes from the August 15, 2006 meeting.

Commissioners Gage and Cowman made a motion to approve the minutes as submitted with all Commissioners voting in favor.

Item 2: 1-Year CUP Review: Heavy Retail & Service usage at 915 N. Pearl (Mobile Dynamics – Original number 05-CUP-04)

The owners of Mobile Dynamics requested and received a conditional use permit for Heavy Retail & Service during August 2005. One of the conditions of approval was that the Planning Commission review the CUP after one (1) year to ensure compliance.

In the past six weeks, there have been questions as to the status of the business. City Staff has been to the location on several occasions and witnessed the apparent discontinuance of the business at 915 North Pearl. A Certified letter was sent to the applicants to their Post Office Box requesting contact in regards to the status of the business. The mail was returned as ‘unclaimed’.

During the period in which the letter was sent, and before it was returned unclaimed, a new business has relocated to the location. It is apparent to staff that the business known as Mobile Dynamics is no longer operating at the location for which the CUP was obtained.

The original conditions that were placed upon this conditional use are defined below:

- 1) All work shall be completed within an enclosed structure. No work on vehicles shall be allowed outside.
- 2) Business hours (where open to the public) shall be limited to 8am – 8pm Monday through Friday and 8am – 6pm on Saturday and Sunday.
- 3) The maximum decibel level shall not exceed 70 decibels at the property line.

- 4) All oils/cleaning fluids/other chemicals shall be disposed of by approved methods and shall not enter the sanitary sewer system.
- 5) No overnight parking shall be allowed outside the building except for a maximum of two (2) after-hours drop-off spaces directly in front of the space occupied by this business.
- 6) After one year, the conditional use permit shall be reviewed by the Planning Commission to ensure compliance. The property owner shall be responsible for notifying adjoining property owners (as identified by the abstractor's search for the original CUP request) by regular mail two weeks in advance of the Planning Commission's review. If the owner will be requesting an amendment to the CUP, the notification shall follow the same procedures as the original CUP notification. Adjoining property owners will have an opportunity to comment on compliance to the conditions of the CUP.
- 7) At any time, the City may institute revocation of the conditional use permit for violations of the conditions of approval, expiration, or the reasons specified in Section 21.225 of the Land Development Ordinance. The City shall provide notice to the landowner and public in the same manner as was provided for the establishment of the conditional use permit.

Recommendation:

Since the applicant has not made any attempts to renew their CUP and Staff has seen that the business is no longer operating at the location, staff recommends beginning revocation of the Conditional Use Permit.

Staff notified the Commissioners that attempts had been made to contact the owners by phone and by visiting the place of business. Staff stated that a letter had been mailed to the applicant asking about their intentions in regards to renewing the Conditional Use Permit, which was returned.

Staff recommended pursuing revocation of the Conditional Use Permit for Mobile Dynamics at this time. If the Commissioners agreed, staff planned to begin the process.

Commissioners Cowman and Gage made a motion to proceed with revocation of the Conditional Use Permit at 915 North Pearl. All Commissioners voted in favor.

Item 3: Conditional Use Permit: Consider a Conditional use at 7 S. Agate to allow Light Industry (screen printing) *(Public Hearing)*

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

Amy Barenklau presented the staff brief. Thomas and Jayme Morris have purchased the old Bob's Radio building and desire to operate a screen printing and embroidery business at 7 South Agate. Section 23.270 of the Land Development Ordinance defines screen print/embroidery services under 'Light Industry'.

In the Downtown zoning district, Light Industry is allowed as a conditional use.

Criteria for Considering a CUP:

When considering a CUP application, the Planning Commission must ensure that the following standards are met (Section 21.220, Parts A-D):

1. The proposed use shall be consistent with the comprehensive plan's purposes, goals, objectives, and standards, including standards for building and structural intensities and densities, and intensities of use.

Division 22.100 "Comprehensive Planning Policy", Section 22.120 "Community Character" states "each community character type permits a range of land uses that are consistent and can be built on adjoining properties without destroying or altering the neighborhood's character." The Planning Commission must determine if the proposed use is consistent with those goals.

The building will remain and the owners hope to improve and clean up the site to enhance the appearance along this proximity as residents and visitors approach the Square.

2. The proposed use shall be compatible with the character of land in the immediate vicinity.

The Planning Commission must determine if the use is compatible with the character of the neighborhood (or could be compatible with certain conditions). There is a wide variety of usages in the downtown area. These uses include residential to industrial. In similar businesses, there are two print shops that offer some promotional items.

3. The proposed use's design shall minimize adverse effects, including visual impact of the proposed use on adjacent lands.

If a CUP is approved, care must be taken to minimize the impact of adjacent properties. Staff believes that there are ways to minimize these impacts.

- a) All work shall be completed within an enclosed structure.
- b) Hours of operation shall be limited to 8am – 12am Sunday through Saturday.
- c) The maximum decibel level shall not exceed 70 decibels at the property line.
- d) All printing and embroidery products not bio-degradable to be disposed of by approved methods and shall not enter the sanitary sewer system.
- e) If a permanent trash dumpster is added, it shall be properly enclosed in a trash enclosure.

- f) Parking area to be striped and ADA sign posted on building and on pavement as well.
- g) Proper venting of production area to be provided that would not impact surrounding properties. Both the dryer and for any possible fumes from inks/dyes.
- h) Parking spaces to be established so as to maximize the site distance for drivers exiting onto Agate Street from the alley.

4. The proposed use shall minimize adverse impacts on the environment, traffic and congestion, infrastructure, or governmental services.

Staff feels the proposed use will not create any adverse effects to the area.

Site Plan:

Section 21.220 of the LDO states that conditional uses shall require a site plan, which may be approved separately or concurrently. A copy of the site plan is provided in the Commission packets. This site is surrounded by the Downtown zoning district on all sides.

1) Parking:		
	• Light Industry (Table 3.110A): 1 per 500 sf plus 1 vehicle	6.5 spaces
	Loading 1 per 20,000 sf	.1 space
	Spaces Required:	6.6 spaces
	<u>Total Parking Required:</u>	<u>7 spaces</u>
		<i>(6 spaces with 1 ADA)</i>
<u>Total Provided:</u>	On area immediately in front of building:	5 spaces
	Downtown parking allowance	2 spaces
	<u>(ADA space provided = 1)</u>	<hr/>
		7 spaces

In the Downtown zoning district there is an allowance for off-site parking. In addition, most of the production work is planned to take place after normal (8-5) business hours, so this will help reduce any parking concerns.

Parking stalls shall be 9' wide x 18' deep. ADA spaces shall have a 5' aisle adjacent to the space.

- 2) Exterior storage is not a concern, as there is no property outside of the building.
- 3) Trash Enclosure: Must comply with Landscaping for Waste or Trash Storage Areas (Figure 03.212-Article 3 of the LDO). Again, there is no land for a trash enclosure.

- 4) Landscaping: This is an existing building. The use is changing (somewhat), however since there is no green space, there is no space to bring landscaping standards up to current requirements.
- 5) Sidewalks: There are walks currently installed along the north half of this block, but nothing currently in front of this building. The current area is and has been utilized as parking for former and current businesses.
- 6) HVAC and Utility Screening: Required if rooftop HVAC units are installed in the future.

Planning Commission Action:

The Planning Commission may take action on one of the following options:

- 1) Recommend approval of the CUP and site plan allowing Light Industry at 7 S. Agate Street, but establish conditions if warranted (see section below).
- 2) Recommend rejection of the CUP and site plan.

Conditions

- 1) All work shall be completed within an enclosed structure.
- 2) Hours of operation shall be limited to 8am – 12am Sunday through Saturday.
- 3) The maximum decibel level shall not exceed 70 decibels at the property line.
- 4) All printing and embroidery products not bio-degradable to be disposed of by approved methods and shall not enter the sanitary sewer system.
- 5) If a permanent trash dumpster is added, it shall be properly enclosed in a trash enclosure.
- 6) Parking area to be striped and ADA sign posted on building and on pavement as well.
- 7) Proper venting of production area to be provided that would not impact surrounding properties. Both the dryer and for any possible fumes from inks/dyes.
- 8) Parking spaces to be established so as to maximize the site distance for drivers exiting onto Agate Street from the alley.
- 9) After one year, the conditional use permit shall be reviewed by the Planning Commission to ensure compliance. The property owner shall be responsible for notifying adjoining property owners (as identified by the abstractor's search for the original CUP request) by regular mail two weeks in advance of the Planning Commission's review. If the owner will be requesting an amendment to the CUP, the notification shall follow the same procedures as the original CUP notification. Adjoining property owners will have an opportunity to comment on compliance to the conditions of the CUP.
- 10) At any time, the City may institute revocation of the conditional use permit for violations of the conditions of approval, expiration, or the reasons specified in Section 21.225 of the Land Development Ordinance. The City shall provide notice to the landowner and public in the same manner as was provided for the establishment of the conditional use permit.

Recommendation:

Staff feels that a screen printing and embroidery business would be a nice addition to the Downtown zoning district. We feel the usage and maintenance of the property will compliment the downtown area and bring additional traffic to this area.

If the Planning Commission recommends approval of the Conditional Use Permit and site plan for the Light Industry at 7 S. Agate Street, staff recommends the above 10 conditions be included.

Council Action:

The Planning Commission recommendation will be forwarded to the City Council where they can:

- 1) Adopt the Planning Commission’s recommendation by ordinance;
- 2) Over-ride the Planning Commission’s recommendation by 2/3 majority vote; or
- 3) Send the recommendation back to the Planning Commission for reconsideration.

Commissioner Gage recommended that the applicants consider an earlier start time than the recommended 10 am. The applicant agreed that 8 am might be a better starting time, so as to allow the business to start earlier in the day if they desire to do so.

City Manager VanderHamm reiterated that the only concern that had been brought to staff’s attention was the concern about parking and the site triangle coming out of the alley onto Agate Street. It was noted that the applicants had made plans to park at an angle to help alleviate the traffic concerns, as well as had placed the ADA parking spot closest to the alley, which would give additional distance to see oncoming traffic.

There were no additional comments from those in attendance. The applicant thanked the Commissioners for considering the application.

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

Commissioners Gage and Cowman made a motion to approve the Conditional Use Permit for Light Industry at 7 South Agate with the recommended conditions, including hours beginning at 8am. All Commissioners voted in favor.

Item 4: Variance: 24101 West 287th – Consider a variance from minimum setbacks required for a detached structure in the Suburban zoning district (*Public Hearing*)

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

Amy Barenklau presented the staff brief. The applicant desires to construct a 27' x 40' (1080sf) storage/utility shed on a 5.3+/- acre tract located immediately south of 287th Street. This tract is West of Old Kansas City Road and is in the city's growth area.

While the LDO does not place a size or material restriction on detached garages & storage/utility sheds for properties greater than 3 acres, setbacks must comply with Table 4.110A. Under the Suburban District in Table 4.110A, setbacks are as follows:

<u>'S' District:</u>	<u>Rear</u>	<u>Side</u>	<u>Street</u>
'All Other Uses:	100'	40'	100'

The reason for the variance request is that the applicant desires to construct this building with a side setback of between 10 and 20 feet (not the 40' required in the LDO). The structure and material type is acceptable – the only issue is the difference between the setback requested and the 40' required.

BACKGROUND:

City Staff was asked to meet on site to visit with homeowners about a possible reduction in minimum setback requirements, after they were notified of the requirements. The applicants were concerned that meeting the requirements would make utilizing the barn difficult, in addition to the extra costs that would be involved. The applicants desire to utilize the barn to park a travel trailer. Placing the structure at strict setbacks poses some additional costs due to the lay of the land and proximity of a rock bed to the structure and top of the ground.

STATUTORY CRITERIA:

The Board of Zoning Appeals must consider the following statutory criteria (in **bold**) when evaluating a variance request:

1. The land use must be allowed in the zoning district.

The area is zoned Suburban. Detached garages & storage/utility sheds are permitted in this district.

2. Special circumstances or conditions exist peculiar to the land or building for which the variance is sought that do not apply generally to the lots, land, or buildings in the neighborhood.

There are some developmental challenges associated with this property. If the barn is placed at the minimum setbacks, it would be placed in an area where there are large beds of rock close to the surface and would require extensive work to be able to construct holes for footings. The existing rock bed is approximately 12 inches below dirt.

3. Special circumstances have not resulted from any act of the applicant subsequent to the adoption of the LDO.

The circumstances are a result of the land, not an action of the landowner.

4. The special circumstances and conditions are such that strict application of the LDO would deprive the applicant of reasonable use of the land or building.

The developmental challenges associated with this property may cause the property owners to possibly incur extensive additional work and costs to place the barn at the minimum setbacks. With this said, it may be difficult to conclude that not granting the variance on setback will deprive the applicant of reasonable use of this land.

5. Granting the variance is necessary to relieve an unnecessary hardship created by the regulations.

Granting a variance is necessary to permit this structure to be constructed at this location. It may be difficult to justify the statement that our setback requirements create an 'unnecessary hardship'.

6. The variance granted is the minimum necessary to relieve the hardship.

It may be possible to shift the shed slightly to the south. If the shed is shifted southward, it will have some impact on the ability of the property owner to hay the southern part of his property, which has been done in the past.

7. Granting the variance will not be injurious to the neighborhood or to the public welfare.

Staff does not believe that granting the variance would be injurious to the public welfare.

8. Granting the variance is consistent with the intent of the LDO and Comprehensive Plan.

The intent of Paola's land use regulations is to encourage 'rational growth' while not depriving reasonable use of property. While this area is zoned Suburban (residential), the challenges associated with this property makes building a structure a little more difficult and costly. A shed/building for housing a travel trailer and storage is a reasonable on this property.

RECOMMENDATION:

Staff feels a slight reduction in the side setback may be reasonable. There is concern that if the property to the west is developed in the future, a 10-foot setback may not be desirable to future neighbors. In addition, a smaller setback than the 20-foot maximum desired by the applicant, may make it difficult to get agricultural equipment past the structure, without damage to the equipment and the shed.

The applicants were in attendance and Kenny Moore explained to the Commissioners the difficulties associated with the walkout basement and drainage. He stated that the garage would also serve as a barrier between existing and future neighbors. He expressed concern if the barn was moved further South to accommodate the setbacks it would be less accessible for a third car and the footing drain would possibly have to be relocated.

Commissioner Cowman inquired about difficulties placing the barn at a 20-foot setback. Mr. Moore explained that at the 20-foot setback a barn would begin to get into the slope from the grading of the house and possibly the footing drain. He stated they would like to get approval for the 10-foot setback and it is possible the barn may not be built that close to the property line.

Commissioner Smith stated he felt the variance deserves some consideration, as it would be difficult to utilize a barn if moved far from where they would like to build.

There were no additional comments from those in attendance.

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

Commissioners Cowman and Smith made a motion to approve the variance in minimum side setbacks for a 10-foot minimum at 24101 West 287th Street. All Commissioners voted in favor.

Item 5: Items from Staff

a. Update on status of front façade discussion

Staff met with the applicant and inquired about the entrance into the residence. The applicant indicated that the owners who had lived in the house prior to them had entered and lived in the basement entrance which was indicated as 'A', facing most directly towards 169 Highway. He also stated that he and his family had used the same entrance prior to the addition, and since that time, the door above the original entrance. Staff received a letter from the applicant stating such and has approved the barn application based on statements and letter from the property owner.

b. Sign Request

Staff has received a request for a sign at Park Plaza Liquor. In reviewing the file for approval, it was noted that there was a deviation approved for the monument sign in 2001. Staff included excerpts from the minutes of that meeting, as well as copies of what Park Plaza Liquor would like to do. Staff is still researching additional information in regards to the deviation, addressing and total number of signs currently at the location(s). However, staff wanted to give the Commissioners an opportunity to review before the scheduled meeting.

Commissioner Cowman said he felt there were three different issues to be addressed with the signage, but overall as long as the sign was within the sign guidelines, it should be allowed.

c. Suburban zoning district – new classification

Staff has received a preliminary draft of an S-2 Suburban zoning district classification from Jim Kaup. The information is included in packets, along with some additional classifications that might be considered now or in the future. Jim and Staff are looking for feedback and suggestions.

The Commissioners and those in attendance offered some suggestions for changes to the new S-2 zoning district and made some recommendations for consideration.

d. Comprehensive Plan Update

Mr. Kaup was in attendance and spoke with the Commission about the status of the update to our Comprehensive Plan.

Item 6: Items from the Planning Commission

There were no items from the Planning Commission.

Item 7: Adjourn

Commissioners Cowman and McLean made a motion to adjourn with all Commissioners voting in favor.